UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE FIRST SESSION OF THE
ONE HUNDRED FIRST CONGRESS
OF THE UNITED STATES OF AMERICA

1989

AND

PROCLAMATIONS

VOLUME 103

IN THREE PARTS

PART 1

PUBLIC LAWS 101-1 THROUGH 101-162

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101-129	To designate the month of October 1989 as "Country Music Month".	Oct. 25, 1989	774
101-130	Making further continuing appropriations for the fiscal year 1990, and for other purposes.	Oct. 26, 1989	775
101-131	Flag Protection Act of 1989	Oct. 28, 1989	777
101-132	To designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, as the "Elbert P. Tuttle United States Court of Appeals Building".	Oct. 30, 1989	778
101-133	Designating October 18, 1989, as "Patient Account Management Day".	Oct. 30, 1989	779
101-134	To amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.	Oct. 30, 1989	780
101-135	To designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day".	Oct. 30, 1989	782
101-136	Treasury, Postal Service and General Government Appropriations Act, 1990.	Nov. 3, 1989	783
101-137	To reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.	Nov. 3, 1989	824
101-138	Designating November 17, 1989, as "National Philanthropy Day".	Nov. 3, 1989	827
101-139	To designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week".	Nov. 3, 1989	828
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101-141	To designate November 8, 1989, as "Montana Centennial Day".	Nov. 8, 1989	836
101-142	Designating October 25, 1989, as "National Arab-American Day".	Nov. 8, 1989	837
101-143	To designate May 25, 1989, as "National Tap Dance Day"	Nov. 8, 1989	838
101-144	Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990.	Nov. 9, 1989	839
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101-146	To designate November 11, 1989 as "Washington Centennial Day".	Nov. 9, 1989	876
101-147	Child Nutrition and WIC Reauthorization Act of 1989	Nov. 10, 1989	877
101-148	Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.	Nov. 10, 1989	920
101-149	To designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week".	Nov. 13, 1989	929
101-150	Designating November 12 through 18, 1989 as "National Glaucoma Awareness Week".	Nov. 13, 1989	930
101-151	Designating November 1989 as "An End to Hunger Education Month".	Nov. 14, 1989	931

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101-152	To redesignate the Federal Building in Houston, Texas, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building".	Nov. 15, 1989	932
101-153	Designating November 5–11, 1989, as "National Women Veterans Recognition Week".	Nov. 15, 1989	933
101-154	Making further continuing appropriations for the fiscal year 1990, and for other purposes.	Nov. 15, 1989	934
101-155	To extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington.	Nov. 15, 1989	935
101-156	To revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York.	Nov. 16, 1989	936
101-157	Fair Labor Standards Amendments of 1989	Nov. 17, 1989	938
101-158	District of Columbia Revenue Bond Act of 1989	Nov. 17, 1989	946
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101-160	Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day".	Nov. 17, 1989	949
101-161	Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990.	Nov. 21, 1989	951
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101-164	Department of Transportation and Related Agencies Appropriations Act, 1990.	Nov. 21, 1989	1069
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101-167	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.	Nov. 21, 1989	1195
101-168	District of Columbia Appropriations Act, 1990	Nov. 21, 1989	1267
101-169	To designate the period commencing on November 20, 1989, and ending on November 26, 1989, as "National Adoption Week".	Nov. 21, 1989	1285
101-170	Designating November 19-25, as "National Family Caregivers Week".	Nov. 21, 1989	1287
101-171	Southeast Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1989.	Nov. 22, 1989	1289
101-172	To authorize the transfer of a specified naval landing ship dock to the Government of Brazil under the leasing authority of chapter 6 of the Arms Export Control Act.	Nov. 22, 1989	1291
101-173	To amend title 5, United States Code, with respect to the method by which premium pay is determined for irregular, unscheduled overtime duty performed by a Federal employee.	Nov. 27, 1989	1292
101-174	Designating November 16, 1989, as "Interstitial Cystitis Awareness Day".	Nov. 27, 1989	1293
101-175	Genesee River Protection Act of 1989	Nov. 27, 1989	1294
101-176	To designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week".	Nov. 27, 1989	1295
101-177	To redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway".	Nov. 28, 1989	1296

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101-178	To amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the Act for fiscal years 1990, 1991, 1992, 1993, and 1994.	Nov. 28, 1989	1297
101-179	Support for East European Democracy (SEED) Act of 1989	Nov. 28, 1989	1298
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101-182	Providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution.	Nov. 28, 1989	1327
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101-185	National Museum of the American Indian Act	Nov. 28, 1989	1336
101-186	To designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.	Nov. 28, 1989	1348
101-187	Approving the location of the memorial to the women who served in Vietnam.	Nov. 28, 1989	1350
101-188	To designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week".	Nov. 28, 1989	1351
101-189	National Defense Authorization Act for Fiscal Years 1990 and 1991.	Nov. 29, 1989	1352
101-190	To provide for the construction of biomedical facilities in order to ensure a continued supply of specialized strains of mice essential to biomedical research in the United States, and for other purposes.	Nov. 29, 1989	1691
101-191	To authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, Iowa, and for other purposes.	Nov. 29, 1989	1697
101-192	To adjust the boundary of Rocky Mountain National Park	Nov. 29, 1989	1700
101-193	Intelligence Authorization Act, Fiscal Year 1990	Nov. 30, 1989	1701
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101-195	Nevada Wilderness Protection Act of 1989	Dec. 5, 1989	1784
101-196	Designating November 1989 and November 1990 as "National Alzheimer's Disease Month".	Dec. 5, 1989	1790
101-197	Designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week".	Dec. 5, 1989	1791
101-198	Making supplemental appropriations for the fiscal year 1990, and for other purposes.	Dec. 6, 1989	1792
101-199	To designate the building located at 2562 Hylan Boulevard, Staten Island, New York, as the "Walter Edward Grady United States Post Office Building".	Dec. 6, 1989	1793
101-200	To authorize distribution within the United States of the United States Information Agency film entitled "A Tribute to Mickey Leland".	Dec. 6, 1989	1794
101-201	To exclude Agent Orange settlement payments from countable income and resources under Federal means-tested programs.	Dec. 6, 1989	1795
101-202	To authorize the food stamp portion of the Minnesota Family Investment Plan.	Dec. 6, 1989	1796
101-203	To amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice.	Dec. 7, 1989	1805

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101-206	National Consumer Cooperative Bank Amendments of 1989.	Dec. 7, 1989	1832
101-207	To authorize appropriations for fiscal year 1990 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service.	Dec. 7, 1989	1833
101-208	To improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes.	Dec. 7, 1989	1836
101-209	Designating 1990 as the "International Year of Bible Reading".	Dec. 7, 1989	1838
101-210	Providing for the appointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 7, 1989	1839
101-211	Providing for the appointment of Robert James Woolsey, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 7, 1989	1840
101-212	To designate the week of December 10, 1989, through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week".	Dec. 11, 1989	1841
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101-216	Arms Control and Disarmament Amendments Act of 1989	Dec. 11, 1989	1853
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101-229	Everglades National Park Protection and Expansion Act of 1989.	Dec. 13, 1989	1946

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6001	National Week of Recognition and Remembrance for Those Who Served in the Korean War, 1989.	July 26, 1989	3067
6002	National POW/MIA Recognition Day, 1989	July 28, 1989	3068
6003	Extending United States Copyright Protections to the Works of the Republic of Indonesia.	July 31, 1989	3069
6004	United States Customs Service 200th Anniversary Year, 1989.	July 31, 1989	3070
6005	Helsinki Human Rights Day, 1989	Aug. 1, 1989	3071
6006	National Neighborhood Crime Watch Day, 1989	Aug. 7, 1989	3073
6007	National Senior Citizens Day, 1989	Aug. 14, 1989	3074
6008	National Library Card Sign-Up Month, 1989	Aug. 14, 1989	3075
6009	National Wilderness Week, 1989	Aug. 14, 1989	3076
6010	Women's Equality Day, 1989	Aug. 15, 1989	3077
6011	National Drive for Life Weekend, 1989	Aug. 15, 1989	3078
6012	National Pledge of Allegiance Day, 1989	Aug. 15, 1989	3079

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6013	The Bicentennial Anniversary of the First U.S. Patent and Copyright Laws, 1990.	Aug. 15, 1989	3080
6014	World War II Remembrance Week, 1989	Aug. 29, 1989	3081
6015	National Check-Up Week, 1989	Sept. 5, 1989	3083
6016	Uncle Sam Day, 1989	Sept. 5, 1989	3084
6017	United States Coast Guard Bicentennial	Sept. 12, 1989	3085
6018	National Alcohol and Drug Treatment Month, 1989	Sept. 12, 1989	3086
6019	National Historically Black Colleges Week, 1989	Sept. 13, 1989	3088
6020	National D.A.R.E. Day, 1989	Sept. 13, 1989	3089
6021	National Hispanic Heritage Month, 1989	Sept. 14, 1989	3090
6022	Citizenship Day and Constitution Week, 1989	Sept. 15, 1989	3092
6023	Law and Order in the Virgin Islands	Sept. 20, 1989	3093
6024	United States Marshals Bicentennial Day, 1989	Sept. 21, 1989	3094
6025	General Pulaski Memorial Day, 1989	Sept. 21, 1989	3095
6026	Emergency Medical Services Week, 1989	Sept. 21, 1989	3096
6027	Commendation of the Citizens of the Sioux City, Iowa, Tri-State Area.	Sept. 22, 1989	3098
6028	Gold Star Mother's Day	Sept. 22, 1989	3098
6029	Religious Freedom Week, 1989	Sept. 27, 1989	3100
6030	To Provide for the Tariff Treatment of Goods From the Freely Associated States, To Implement Tariff Reductions on Certain Tropical Products, and for Other Purposes.	Sept. 28, 1989	3101
6031	National Quality Month, 1989	Sept. 29, 1989.	3112
6032	Mental Illness Awareness Week, 1989	Sept. 29, 1989	3113
6033	Child Health Day, 1989	Sept. 29, 1989	3114
6034	Minority Enterprise Development Week, 1989	Oct. 2, 1989	3116
6035	National Health Care Food Service Week, 1989	Oct. 3, 1989	3117
6036	Raoul Wallenberg Day, 1989	Oct. 4, 1989	3117
6037	German-American Day, 1989	Oct. 5, 1989	3119
6038	Veterans Day, 1989	Oct. 5, 1989	3120
6039	National Children's Day, 1989	Oct. 5, 1989	3121
6040	Columbus Day, 1989	Oct. 6, 1989	3123
6041	Leif Erikson Day, 1989	Oct. 6, 1989	3124
6042	National School Lunch Week, 1989	Oct. 10, 1989	3125
6043	National Domestic Violence Awareness Month, 1989	Oct. 11, 1989	3126
6044	National Job Skills Week, 1989	Oct. 11, 1989	3127
6045	Italian-American Heritage and Culture Month, 1989	Oct. 12, 1989	3128
6046	National Disability Employment Awareness Month, 1989.	Oct. 13, 1989	3129
6047	White Cane Safety Day, 1989	Oct. 13, 1989	3130
6048	World Food Day, 1989 and 1990	Oct. 16, 1989	3131
6049	National Down Syndrome Month, 1989 and 1990	Oct. 16, 1989	3133
6050	National Awareness Week for Children With Cancer, 1989.	Oct. 18, 1989	3134
6051	National Forest Products Week, 1989	Oct. 19, 1989	3136
6052	United Nations Day, 1989	Oct. 19, 1989	3137
6053	National Red Ribbon Week for a Drug-Free America, 1989.	Oct. 24, 1989	3138
6054	Polish American Heritage Month, 1989	Oct. 25, 1989	3140
6055	Country Music Month, 1989	Oct. 25, 1989	3141
6056	National Arab-American Day, 1989	Oct. 25, 1989	3142
6057	Fire Safety at Home Day, 1989	Oct. 27, 1989	3143
6058	To Amend the Generalized System of Preferences	Oct. 31, 1989	3144
6059	Gaucher's Disease Awareness Week, 1989	Nov. 1, 1989	3150

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6060	To Amend the Generalized System of Preferences	Nov. 1, 1989	3151
6061	National Hospice Month, 1989 and 1990	Nov. 7, 1989	3152
6062	National Glaucoma Awareness Week, 1989	Nov. 7, 1989	3153
6063	Montana Centennial Day, 1989	Nov. 8, 1989	3154
6064	National Women Veterans Recognition Week, 1989	Nov. 9, 1989	3154
6065	Washington Centennial Day, 1989	Nov. 9, 1989	3155
6066	Geography Awareness Week, 1989	Nov. 9, 1989	3156
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6069	Community Foundation Week, 1989	Nov. 15, 1989	3160
6070	National Farm-City Week, 1989	Nov. 15, 1989	3161
6071	National Philanthropy Day, 1989	Nov. 15, 1989	3162
6072	Hunger Education Month, 1989	Nov. 16, 1989	3163
6073	Thanksgiving Day, 1989	Nov. 17, 1989	3164
6074	National Military Families Recognition Day, 1989	Nov. 20, 1989	3166
6075	National Family Week, 1989 and 1990	Nov. 21, 1989	3167
6076	National Adoption Week, 1989	Nov. 21, 1989	3168
6077	National Family Caregivers Week, 1989	Nov. 22, 1989	3169

PUBLIC LAWS

ENACTED DURING THE

FIRST SESSION OF THE ONE HUNDRED FIRST CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Tuesday, January 3, 1989, adjourned sine die on Wednesday, November 22, 1989. GEORGE BUSH, *President;* DAN QUAYLE, *Vice President;* THOMAS S. FOLEY, *Speaker of the House of Representatives.*

Public Law 101-1
101st Congress

Joint Resolution

Disapproving the increases in executive, legislative, and judicial salaries recommended by the President under section 225 of the Federal Salary Act of 1967.

Feb. 7, 1989
[H.J. Res. 129]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress disapproves in their entirety the recommendations transmitted to the Congress by the President on January 9, 1989, under section 225(h) of the Federal Salary Act of 1967.

2 USC 358 note.

Approved February 7, 1989.

LEGISLATIVE HISTORY—H.J. Res. 129 (S.J. Res. 7):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 2, S.J. Res. 7 considered and passed Senate.
Feb. 7, H.J. Res. 129 considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Feb. 7, Presidential statement.

Public Law 101-2
101st Congress

Joint Resolution

Mar. 15, 1989
[H.J. Res. 22]

To designate the week beginning March 6, 1989, as "Federal Employees Recognition Week".

Whereas Federal employees serve the people of the United States by enabling the Federal Government to carry out its duties in an efficient manner;

Whereas more than 3,000,000 individuals are employed by the Federal Government;

Whereas many valuable services performed by Federal employees are often inadequately recognized by Federal officials and by the people of the United States; and

Whereas Federal employees should be commemorated for the contributions that they make to the efficient operation of the Federal Government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 6, 1989, is designated "Federal Employees Recognition Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved March 15, 1989.

LEGISLATIVE HISTORY—H.J. Res. 22:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 1, considered and passed House.
Mar. 2, considered and passed Senate.

Public Law 101-3
101st Congress

Joint Resolution

To designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Mar. 21, 1989
[S.J. Res. 64]

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;
Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;
Whereas March 25, 1989, marks the one hundred and sixty-eighth anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;
Whereas these and other ideals have forged a close bond between our two nations and their peoples; and
Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1989, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Approved March 21, 1989.

LEGISLATIVE HISTORY—S.J. Res. 64:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 2, considered and passed Senate.
Mar. 14, considered and passed House.

Public Law 101-4
101st Congress

Joint Resolution

Mar. 23, 1989
[H.J. Res. 117]

To proclaim March 20, 1989, as "National Agriculture Day".

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas agriculture serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in world trade markets;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being whether they live in urban or rural areas; and

Whereas since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1989, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 19 through March 25, 1989.

Approved March 23, 1989.

LEGISLATIVE HISTORY—H.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 16, considered and passed Senate.

Public Law 101-5
101st Congress

Joint Resolution

To designate March 16, 1989, as "Freedom of Information Day".

Mar. 23, 1989
[H.J. Res. 167]

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;
Whereas the freedoms we cherish as Americans are fostered by free access to information;
Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;
Whereas the guarantee of free access to information should be emphasized and celebrated annually; and
Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1989, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved March 23, 1989.

LEGISLATIVE HISTORY—H.J. Res. 167:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 16, considered and passed Senate.

Public Law 101-6
101st Congress

Joint Resolution

Mar. 24, 1989
[H.J. Res. 148]

Designating the month of March in both 1989 and 1990 as "Women's History Month".

Whereas American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home;

Whereas American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation;

Whereas American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement;

Whereas American women have been leaders not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the literature, teaching, and study of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1989 and March 1990 are both designated as "Women's History Month". The President is authorized and requested to issue a proclamation for each of those months calling upon the people of the United States to observe those months with appropriate programs, ceremonies, and activities.

Approved March 24, 1989.

LEGISLATIVE HISTORY—H.J. Res. 148:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 7, considered and passed House.
Mar. 15, considered and passed Senate.

Public Law 101-7
101st Congress

An Act

To provide for more balance in the stocks of dairy products purchased by the Commodity Credit Corporation.

Mar. 29, 1989
[S. 553]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.

7 USC 1446 note.

(a) MODIFICATION OF PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.—Notwithstanding any other provision of law, with respect to purchases of butter and non-fat dry milk made under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), the Secretary of Agriculture, in carrying out the temporary $0.50 per hundredweight increase in the rate of price support for milk provided for in section 102(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1446 note), shall provide that at least 75 percent of such price support increase shall be reflected in the purchase price for non-fat dry milk and that not more than 25 percent of such price support increase shall be reflected in the purchase price for butter.

(b) DECREASE IN PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.—Notwithstanding any other provision of law, with respect to purchases of butter and non-fat dry milk made under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), the Secretary of Agriculture, in implementing the $0.50 per hundredweight decrease in the rate of price support for milk scheduled to occur on July 1, 1989 (as provided in section 102(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1446 note)), shall provide that not more than 25 percent of such price support decrease shall be reflected in the purchase price for non-fat dry milk and that at least 75 percent of such price support decrease shall be reflected in the purchase price for butter: *Provided, however,* That the Secretary of Agriculture may allocate such decrease in the rate of price support between the purchase prices for non-fat dry milk and butter in such other manner as the Secretary determines will result in the lowest level of expenditures by the Commodity Credit Corporation and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of such determination.

Approved March 29, 1989.

LEGISLATIVE HISTORY—S. 553:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 9, considered and passed Senate.
Mar. 15, considered and passed House, amended.
Mar. 17, Senate concurred in House amendment.

Public Law 101-8
101st Congress

Joint Resolution

Mar. 29, 1989
[S.J. Res. 87]

To commend the Governments of Israel and Egypt on the occasion of the tenth anniversary of the Treaty of Peace between Israel and Egypt.

Whereas in Washington, District of Columbia, on March 26, 1979, the Governments of Israel and Egypt, with the support and encouragement of the United States, signed a treaty of peace formally ending their state of war;

Whereas this treaty, the only peace agreement between Israel and an Arab nation, remains a crucial element in fostering peace in the Middle East;

Whereas under terms of this historic document Israel and Egypt agreed to end the state of war between them, Israel fully withdrew its military forces and civilian settlements from the Sinai Peninsula, and Israel and Egypt established formal diplomatic relations including the exchange of ambassadors;

Whereas the establishment of peace between Israel and Egypt demonstrates that direct bilateral negotiations are the most effective way to resolve the Arab-Israeli conflict and can lead to lasting and mutually beneficial results;

Whereas the other parties to the conflict have been unwilling to enter into direct bilateral negotiations but continue to maintain a state of war against Israel;

Whereas the continuation of the conflict has exacted a high cost in human lives and human suffering from both Israelis and Arabs; and

Whereas the treaty has allowed the peoples of Israel and Egypt to begin to build a network of cultural, economic, personal, and political contacts among themselves: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Government—

(1) commends Israel and Egypt for their historic act of courage and statesmanship in signing the Treaty of Peace of March 26, 1979;

(2) calls upon the President to mark this historic anniversary with appropriate public activities;

(3) welcomes the willingness of Israel and Egypt to continue to observe the international obligations they have accepted which have contributed to the peace and stability of the region; and

(4) calls upon other Arab nations and the Palestinians to follow the example of Israel and Egypt, to join actively in the peace process, to renounce the state of war and acts of violence, and to enter into face-to-face negotiations to achieve a just and lasting peace.

Approved March 29, 1989.

LEGISLATIVE HISTORY—S.J. Res. 87 (H.J. Res. 187):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, H.J. Res. 187 considered and passed House.
Mar. 16, S.J. Res. 87 considered and passed Senate.
Mar. 23, considered and passed House.

Public Law 101-9
101st Congress

An Act

Mar. 31, 1989
[H.R. 1373]

To authorize the Agency for International Development to pay the expenses of an election observer mission for the 1989 presidential elections in Panama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPENSES OF OBSERVER MISSION FOR 1989 ELECTIONS IN PANAMA.

The Administrator of the Agency for International Development is authorized to use any funds described in section 2 to pay the expenses of an election observer mission for the 1989 presidential elections in Panama.

SEC. 2. DESCRIPTION OF FUNDS WHICH MAY BE USED.

In carrying out section 1, the Administrator of the Agency for International Development may use any unearmarked funds that are available to carry out chapter 1 of part I (relating to development assistance) or chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961.

SEC. 3. RESTRICTIONS ON ASSISTANCE FOR PANAMA NOT APPLICABLE.

Funds may be used in accordance with this Act without regard to any provision of law which would otherwise prohibit the use of foreign assistance funds with respect to Panama.

Approved March 31, 1989.

LEGISLATIVE HISTORY—H.R. 1373:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 17, considered and passed Senate.

Public Law 101-10
101st Congress

Joint Resolution

To designate the week beginning April 2, 1989, as "National Child Care Awareness Week".

Apr. 2, 1989
[S.J. Res. 50]

Whereas the status and composition of the family in the United States is constantly changing;
Whereas today 57 percent of all women with children younger than six years of age work outside the home;
Whereas by 1995, two-thirds of all pre-school children and more than three-quarters of all school-age children will have mothers in the work force;
Whereas the increasing participation of women in the work force will continue to increase the demand for child care during the working hours;
Whereas adequate child care is an increasingly important element in enhancing the productivity of the work force and enabling parents to receive additional job training;
Whereas child care experts have long known that a child's first five years are the ideal base to support lifelong learning, and child care providers in both homes and child care centers can provide vital assistance to parents in these critical years;
Whereas the collaboration of public and private efforts is essential to developing accessible, high quality child care;
Whereas the National Association for the Education of Young Children is sponsoring a week of the young child, and it is appropriate for Congress to designate the same week as a period devoted to increasing public awareness of child care issues;
Whereas communities across the United States are planning special activities to honor child care providers to illustrate the importance of high quality child care during that week; and
Whereas all children deserve high quality child care, and all parents have a profound obligation to provide a safe wholesome environment for their children at all times: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 2, 1989, is designated as "National Child Care Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved April 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 50:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Mar. 23, considered and passed House.

Public Law 101-11
101st Congress

An Act

To make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act.

Apr. 7, 1989
[H.R. 829]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wildfire Suppression Assistance Act.
42 USC 1856m note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildfire Suppression Assistance Act".

SEC. 2. PERMANENT AUTHORITY.

The Temporary Emergency Wildfire Suppression Act (Public Law 100-428) is amended by repealing section 5.

42 USC 1856p.

Approved April 7, 1989.

LEGISLATIVE HISTORY—H.R. 829:

HOUSE REPORTS: No. 101-5, Pt. 1 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 17, considered and passed Senate.

Public Law 101-12
101st Congress

An Act

Apr. 10, 1989
[S. 20]

To amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Whistleblower Protection Act of 1989.
5 USC 1201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1989".

5 USC 1201 note.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to protect whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) from reprisal.

(b) PURPOSE.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

(2) establishing—

(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel; and

(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; OFFICE OF SPECIAL COUNSEL; INDIVIDUAL RIGHT OF ACTION.

(a) MERIT SYSTEMS PROTECTION BOARD.—Chapter 12 of title 5, United States Code is amended—

(1) in section 1201 in the second sentence by striking out "Chairman and";

(2) in the heading for section 1202 by striking out the comma and inserting in lieu thereof a semicolon;

(3) in section 1202(b)—

(A) in the first sentence by striking out "his" and inserting in lieu thereof "the member's"; and

(B) in the second sentence by striking out "of this title";

(4) in section 1203(a) in the first sentence by striking out the comma after "time";

(5) in section 1203(c) by striking out "the Chairman and Vice Chairman" and inserting in lieu thereof "the Chairman and the Vice Chairman";

(6) by redesignating section 1204 as section 1211(b) and inserting such subsection after section 1211(a) (as added in paragraph (11) of this subsection);

(7) by redesignating section 1205 as section 1204, and amending such redesignated section—

(A) by striking out "and Special Counsel", "the Special Counsel," and "of this section" each place such terms appear;

(B) by striking out "subpena" and "subpenaed" each place such terms appear and inserting in lieu thereof "subpoena" and "subpoenaed", respectively;

(C) in subsection (a)(4) by striking out "(e)" and inserting in lieu thereof "(f)";

(D) by amending subsection (b)(2) to read as follows:

"(2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—

"(A) issue subpoenas requiring the attendance and presentation of testimony of any such individual, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.";

(E) in subsection (c) in the first sentence—

(i) by striking out "(b)(2) of this section," and inserting in lieu thereof "(b)(2)(A) or section 1214(b), upon application by the Board,"; and

(ii) by striking out "judicial";

(F) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting after subsection (c) the following new subsection:

"(d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.";

District of Columbia.

(G) in subsection (e) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1)—

(I) by redesignating such paragraph as subparagraph (A) of paragraph (1); and

(II) by inserting at the end thereof the following new subparagraph:

"(B)(i) The Merit Systems Protection Board may, during an investigation by the Office of Special Counsel or during the pendency of any proceeding before the Board, issue any order which may be necessary to protect a witness or other individual from harassment, except that an agency (other than the Office of Special Counsel) may not request any such order with regard to an investigation by the Office of Special Counsel from the Board during such investigation.

"(ii) An order issued under this subparagraph may be enforced in the same manner as provided for under paragraph (2) with respect to any order under subsection (a)(2).";

(ii) in paragraph (2)—

(I) by redesignating such paragraph as subparagraph (A) of paragraph (2) and striking out "of this section" in the first sentence therein; and

(II) by inserting at the end thereof the following new subparagraph (B):

Regulations.

"(B) The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A)."; and

(iii) in paragraph (3) by inserting "of Personnel Management" after "Office";

(H) in subsection (f) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1) in the first sentence by inserting "of the Office of Personnel Management" after "Director", and by striking out "of this title";

(ii) in paragraph (2)—

(I) in the first sentence by inserting a comma after "subsection";

(II) in subparagraph (A) by striking out "of this title"; and

(III) in subparagraph (B) by striking out "of this title"; and

(iii) in paragraph (3)—

(I) in subparagraph (A) by striking out "(A)";

(II) by striking out subparagraph (B); and

(III) by redesignating subparagraph (C) and clauses (i) and (ii) therein as paragraph (4) and subparagraphs (A) and (B), respectively; and

(I) in subsection (j) (as redesignated by subparagraph (F) of this paragraph) in the second sentence by striking out "of this title" after "chapter 33";

(8) by striking out sections 1206 through 1208;

(9) by redesignating section 1209(a) as section 1205, and inserting before such section the following section heading:

"§ 1205. Transmittal of information to Congress";

(10) by redesignating section 1209(b) as section 1206, and inserting before such section the following section heading:

"§ 1206. Annual report";

(11) by inserting after section 1206 (as redesignated in paragraph (10) of this subsection) the following:

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"§ 1211. Establishment

"(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.";

District of Columbia.

(12) by amending section 1211(b) (as redesignated and inserted by paragraph (6) of this subsection)—

(A) in the first sentence by striking out "of the Merit Systems Protection Board" and "from attorneys";

(B) by striking the second sentence and inserting in lieu thereof "The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term."; and

(C) by adding at the end thereof "The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President."; and

(13) inserting after section 1211 the following:

"§ 1212. Powers and functions of the Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) in accordance with section 1214(a) and other applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—

"(A) bring petitions for stays, and petitions for corrective action, under section 1214; and

"(B) file a complaint or make recommendations for disciplinary action under section 1215;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213, disclosures of violations of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the

jurisdiction of the Office of Special Counsel (as referred to in section 1216).

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may—

"(A) issue subpoenas; and

"(B) order the taking of depositions and order responses to written interrogatories;

in the same manner as provided under section 1204.

"(3)(A) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A), the Special Counsel may apply to the Merit Systems Protection Board to enforce the subpoena in court pursuant to section 1204(c).

"(B) A subpoena under paragraph (2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in the manner referred to in subsection (d) of section 1204, and the United States District Court for the District of Columbia may, with respect to any such individual, compel compliance in accordance with such subsection.

"(4) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c)(1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2) The Special Counsel may not intervene in an action brought by an individual under section 1221, or in an appeal brought by an individual under section 7701, without the consent of such individual.

"(d)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

Federal Register, publication.

"(e) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.

"(f) The Special Counsel may not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).

"(g)(1) The Special Counsel may not respond to any inquiry or provide information concerning any person making an allegation under section 1214(a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

"(2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any inquiry concerning a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a person described in paragraph (1)—

"(A) unless the consent of the individual as to whom the information pertains is obtained in advance; or

"(B) except upon request of an agency which requires such information in order to make a determination concerning an individual's having access to the information unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security.

"§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

"(a) This section applies with respect to—

"(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

"(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety. Safety.

"(c)(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

"(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

"(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel. Reports.

"(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—

"(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

"(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsection (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

"(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the report of the agency under subsection (c)(1) of this section contains the information required under subsection (d) of this section.

"(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General.

"(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General together with a statement noting the failure of the head of the agency to file the required report.

"(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(1) the report shall not be transmitted to the complainant; and

"(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(g)(1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special

Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head. If the Special Counsel does not transmit the information to the head of the agency, the Special Counsel shall return any documents and other matter provided by the individual who made the disclosure.

"(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall—

"(A) return any documents and other matter provided by the individual who made the disclosure; and

"(B) inform the individual of—

"(i) the reasons why the disclosure may not be further acted on under this chapter; and

"(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

Safety.

"(h) The identity of any individual who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without such individual's consent unless the Special Counsel determines that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent violation of any criminal law.

Classified information.

"(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

Defense and national security.

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Classified information. Defense and national security.

"(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the National Security Advisor, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

"§ 1214. Investigation of prohibited personnel practices; corrective action

"(a)(1)(A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to

the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—

"(i) the allegation has been received by the Special Counsel; and

"(ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.

"(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—

"(i) within 90 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;

"(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and

"(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.

"(2)(A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—

"(i) the termination of the investigation;

"(ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person; and

"(iii) the reasons for terminating the investigation.

"(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).

"(3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302(b)(8) from the Special Counsel and—

"(A)(i) the Special Counsel notifies such employee, former employee, or applicant that an investigation concerning such employee, former employee, or applicant has been terminated; and

"(ii) no more than 60 days have elapsed since notification was provided to such employee, former employee, or applicant for employment that such investigation was terminated; or

"(B) 120 days after seeking corrective action from the Special Counsel, such employee, former employee, or applicant has not

been notified by the Special Counsel that the Special Counsel shall seek corrective action on behalf of such employee, former employee, or applicant.

"(4) If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.

"(5) In addition to any authority granted under paragraph (1), the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1)(A)(i) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 45 days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(ii) Any member of the Board requested by the Special Counsel to order a stay under clause (i) shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(iii) Unless denied under clause (ii), any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(B) The Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate.

"(C) The Board shall allow any agency which is the subject of a stay to comment to the Board on any extension of stay proposed under subparagraph (B).

"(D) A stay may be terminated by the Board at any time, except that a stay may not be terminated by the Board—

"(i) on its own motion or on the motion of an agency, unless notice and opportunity for oral or written comments are first provided to the Special Counsel and the individual on whose behalf the stay was ordered; or

"(ii) on motion of the Special Counsel, unless notice and opportunity for oral or written comments are first provided to the individual on whose behalf the stay was ordered.

"(2)(A) If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office of Personnel Management, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken. Reports.

"(B) If, after a reasonable period of time, the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

"(C) If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has

acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.

"(3) Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—

"(A) oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and

"(B) written comments by any individual who alleges to be the subject of the prohibited personnel practice.

"(4)(A) The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counsel has demonstrated that a prohibited personnel practice, other than one described in section 2302(b)(8), has occurred, exists, or is to be taken.

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the Special Counsel has demonstrated that a disclosure described under section 2302(b)(8) was a contributing factor in the personnel action which was taken or is to be taken against the individual.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(c)(1) Judicial review of any final order or decision of the Board under this section may be obtained by any employee, former employee, or applicant for employment adversely affected by such order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

Reports.

"(d)(1) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—

"(A) the alleged violation has been reported to the Attorney General; and

"(B) the Attorney General is pursuing an investigation, in which case the Special Counsel, after consultation with the Attorney General, has discretion as to whether to proceed.

Reports.

"(e) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (d), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and when the action will be completed.

"(f) During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"§ 1215. Disciplinary action

"(a)(1) Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—

"(A) committed a prohibited personnel practice,

"(B) violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or

"(C) knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel's determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.

"(2) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

"(A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;

"(B) be represented by an attorney or other representative;

"(C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;

"(D) have a transcript kept of any hearing under subparagraph (C); and Records.

"(E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703(b).

"(5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter. State and local governments.

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the Presi-

dent for appropriate action in lieu of being presented under subsection (a).

Uniformed services.

"(c)(1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the agency concerned.

Reports.

"(2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

"§ 1216. Other matters within the jurisdiction of the Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection (b), conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;

State and local governments.

"(2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in subsection (a)(5), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(c)(1) If an investigation by the Special Counsel under subsection (a)(1) substantiates an allegation relating to any activity prohibited under section 7324, the Special Counsel may petition the Merit Systems Protection Board for any penalties provided for under section 7325.

"(2) If the Special Counsel receives an allegation concerning any matter under paragraph (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 in the same way as if a prohibited personnel practice were involved.

"§ 1217. Transmittal of information to Congress

"The Special Counsel or any employee of the Special Counsel designated by the Special Counsel, shall transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and the Special Counsel's

views on functions, responsibilities, or other matters relating to the Office. Such information shall be transmitted concurrently to the President and any other appropriate agency in the executive branch.

"§ 1218. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"§ 1219. Public information

Records.

"(a) The Special Counsel shall maintain and make available to the public—

"(1) a list of noncriminal matters referred to heads of agencies under subsection (c) of section 1213, together with reports from heads of agencies under subsection (c)(1)(B) of such section relating to such matters;

"(2) a list of matters referred to heads of agencies under section 1215(c)(2);

"(3) a list of matters referred to heads of agencies under subsection (e) of section 1214, together with certifications from heads of agencies under such subsection; and

"(4) reports from heads of agencies under section 1213(g)(1).

"(b) The Special Counsel shall take steps to ensure that any list or report made available to the public under this section does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

Classified information. Defense and national security.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"§ 1221. Individual right of action in certain reprisal cases

"(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), seek corrective action from the Merit Systems Protection Board.

"(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

"(c)(1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

"(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

"(3)(A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

"(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

"(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.

"(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

"(e)(1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302(b)(8) was a contributing factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant.

"(2) Corrective action under paragraph (1) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(f)(1) A final order or decision shall be rendered by the Board as soon as practicable after the commencement of any proceeding under this section.

"(2) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.

"(g)(1) If an employee, former employee, or applicant for employment is the prevailing party before the Merit Systems Protection Board, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other reasonable costs incurred.

"(2) If an employee, former emloyee, or applicant for employment is the prevailing party in an appeal from the Merit Systems Protection Board, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other reasonable costs incurred, regardless of the basis of the decision.

"(h)(1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of

the Board under this section may obtain judicial review of the order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513(d) if, or to the extent that, a prohibited personnel practice as defined in section 2302(b)(8) is alleged.

"(j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.

"§ 1222. Availability of other remedies

"Except as provided in section 1221(i), nothing in this chapter or chapter 23 shall be construed to limit any right or remedy available under a provision of statute which is outside of both this chapter and chapter 23.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters for part II of title 5, United States Code, is amended by striking the item relating to chapter 12 and inserting in lieu thereof the following:

"12. Merit Systems Protection Board, Office of Special Counsel, and Individual Right of Action ..... 1201".

(2) The heading for chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION".

(3) The table of sections for chapter 12 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"Sec. 1201. Appointment of members of the Merit Systems Protection Board.
"Sec. 1202. Term of office; filling vacancies; removal.
"Sec. 1203. Chairman; Vice Chairman.
"Sec. 1204. Powers and functions of the Merit Systems Protection Board.
"Sec. 1205. Transmittal of information to Congress.
"Sec. 1206. Annual report.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"Sec. 1211. Establishment.
"Sec. 1212. Powers and functions of the Office of Special Counsel.
"Sec. 1213. Provisions relating to disclosures of violations of law, mismanagement, and certain other matters.
"Sec. 1214. Investigation of prohibited personnel practices; corrective action.
"Sec. 1215. Disciplinary action.
"Sec. 1216. Other matters within the jurisdiction of the Office of Special Counsel.
"Sec. 1217. Transmittal of information to Congress.
"Sec. 1218. Annual report.
"Sec. 1219. Public information.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"Sec. 1221. Individual right of action in certain reprisal cases.
"Sec. 1222. Availability of other remedies.".

(4) Chapter 12 of title 5, United States Code, is further amended by inserting before section 1201 the following subchapter heading:

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD".

SEC. 4. REPRISALS.

(a) AMENDMENTS TO SECTION 2302(b)(8).—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) by inserting ", or threaten to take or fail to take," after "take or fail to take";

(2) by striking out "as a reprisal for" and inserting in lieu thereof "because of";

(3) in subparagraph (A) by striking out "a disclosure" and inserting in lieu thereof "any disclosure";

(4) in subparagraph (A)(ii) by inserting "gross" before "mismanagement";

(5) in subparagraph (B) by striking out "a disclosure" and inserting in lieu thereof "any disclosure"; and

(6) in subparagraph (B)(ii) by inserting "gross" before "mismanagement".

(b) AMENDMENT TO SECTION 2302(b)(9).—Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

"(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

"(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

"(D) for refusing to obey an order that would require the individual to violate a law;".

SEC. 5. PREFERENCE IN TRANSFERS FOR WHISTLEBLOWERS.

(a) IN GENERAL.—Subchapter IV of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3352. Preference in transfers for employees making certain disclosures

"(a) Subject to the provisions of subsections (d) and (e), in filling a position within any Executive agency, the head of such agency may give preference to any employee of such agency, or any other Executive agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer under subsection (b) if—

"(1) such employee is otherwise qualified for such position;

"(2) such employee is eligible for appointment to such position; and

"(3) the Merit Systems Protection Board makes a determination under the provisions of chapter 12 that a prohibited personnel action described under section 2302(b)(8) was taken against such employee.

"(b) An employee who meets the conditions described under subsection (a) (1), (2), and (3) may voluntarily apply for a transfer to a position, as described in subsection (a), within the Executive agency employing such employee or any other Executive agency.

"(c) If an employee applies for a transfer under the provisions of subsection (b) and the selecting official rejects such application, the selecting official shall provide the employee with a written notification of the reasons for the rejection within 30 days after receiving such application.

"(d) An employee whose application for transfer is rejected under the provisions of subsection (c) may request the head of such agency to review the rejection. Such request for review shall be submitted to the head of the agency within 30 days after the employee receives notification under subsection (c). Within 30 days after receiving a request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Merit Systems Protection Board.

"(e) The provisions of subsection (a) shall apply with regard to any employee—

"(1) for no more than 1 transfer;

"(2) for a transfer from or within the agency such employee is employed at the time of a determination by the Merit Systems Protection Board that a prohibited personnel action as described under section 2302(b)(8) was taken against such employee; and

"(3) no later than 18 months after such a determination is made by the Merit Systems Protection Board.

"(f) Notwithstanding the provisions of subsection (a), no preference may be given to any employee applying for a transfer under subsection (b), with respect to a preference eligible (as defined under section 2108(3)) applying for the same position.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3351 the following:

"3352. Preference in transfers for employees making certain disclosures.".

SEC. 6. INTERIM RELIEF.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (1) of subsection (b); and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

"(i) the deciding official determines that the granting of such relief is not appropriate; or

"(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

"(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

"(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of

employment during the period pending the outcome of any petition for review under subsection (e).

"(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.".

5 USC 1201 note.

SEC. 7. SAVINGS PROVISIONS.

(a) ORDERS, RULES, AND REGULATIONS.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

(b) ADMINISTRATIVE PROCEEDINGS.—No provision of this Act shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

(c) SUITS AND OTHER PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978; TRANSFER OF FUNDS.

5 USC 5509 note.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1989, 1990, 1991, 1992, 1993, and 1994, such sums as necessary to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

(2) for each of fiscal years 1989, 1990, 1991, and 1992, such sums as necessary to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

5 USC 5509 note.

(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note).

5 USC 1211 note.

(c) TRANSFER OF FUNDS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

(a)(1) Section 2303(c) of title 5, United States Code, is amended by striking "the provisions of section 1206" and inserting "applicable provisions of sections 1214 and 1221".

(2) Sections 7502, 7512(E), 7521(b)(C), and 7542 of title 5, United States Code, are amended by striking "1206" and inserting "1215".

(3) Section 1109(a) of the Foreign Service Act of 1980 (22 U.S.C. 4139(a)) is amended by striking "1206" and inserting "1214 or 1221".

(b) Section 3393(g) of title 5, United States Code, is amended by striking "1207" and inserting "1215".

SEC. 10. BOARD RESPONDENT.

Section 7703(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) The Board shall be named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision on the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.".

SEC. 11. EFFECTIVE DATE.

5 USC 1201 note.

This Act and the amendments made by this Act shall take effect 90 days following the date of enactment of this Act.

Approved April 10, 1989.

LEGISLATIVE HISTORY—S. 20:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 16, considered and passed Senate.
Mar. 21, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Apr. 10, Presidential remarks and statement.

Public Law 101-13
101st Congress

Joint Resolution

Apr. 13, 1989
[S.J. Res. 43]

Designating April 9, 1989, as "National Former Prisoners of War Recognition Day".

Whereas the United States has fought in many wars;
Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;
Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;
Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and
Whereas these great sacrifices by former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1989, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such days with appropriate ceremonies and activities.

Approved April 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 43:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 8, considered and passed Senate.
Apr. 5, considered and passed House.

Public Law 101-14
101st Congress

An Act

To implement the Bipartisan Accord on Central America of March 24, 1989.

Apr. 18, 1989
[H.R. 1750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nicaragua.

SECTION 1. POLICY.

The purpose of this Act is to implement the Bipartisan Accord on Central America between the President and the Congress signed on March 24, 1989.

SEC. 2. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) TRANSFER OF FUNDS.—The President may transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 6—

(1) up to $49,750,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through February 28, 1990;

(2) such funds as may be necessary to provide transportation in accordance with section 3 for assistance authorized by paragraph (1); and

(3) not to exceed $5,000,000 to "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out this Act, to remain available through March 31, 1990.

(b) DEFINITION.—For purposes of this section and section 3, the term "humanitarian assistance" means—

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment for such items, services, and training;

(5) replacement batteries for existing communications equipment; and

(6) support for voluntary reintegration of and voluntary regional relocation by the Nicaraguan Resistance.

SEC. 3. TRANSPORTATION OF HUMANITARIAN ASSISTANCE.

(a) IN GENERAL.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 2, shall be arranged solely by the Agency for International Development in a manner consistent with the Bipartisan Accord on Central America between the President and the Congress signed on March 24, 1989.

(b) PROHIBITION ON MIXED LOADS.—Transportation of any military assistance, or of any assistance other than that specified in 2(b), is prohibited.

SEC. 4. MEDICAL ASSISTANCE.

The President may transfer, in addition to funds transferred prior to March 31, 1989, to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 6, up to $4,166,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua.

SEC. 5. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission;

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America; and

(3) in the context of an agreement to end military conflict in the region;

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 6. SOURCE OF FUNDS; AND RESCISSION.

(INCLUDING TRANSFERS AND RESCISSION)

(a) SOURCE OF FUNDS.—The appropriations accounts from which funds may be transferred pursuant to sections 2 and 4 are the following accounts in amounts not to exceed the following:

(1) Missile Procurement, Army, 1988, $3,500,000.

(2) Procurement of Weapons and Tracked Combat Vehicles, Army, 1987, $12,739,000.

(3) Other Procurement, Army, 1988, $761,000.

(4) Research, Development, Test and Evaluation, Air Force, 1988, $1,902,000.

(5) Weapons Procurement, Navy, 1989, $2,000,000.

(6) Research, Development, Test and Evaluation, Navy, 1989, $13,400,000.

(7) Other Procurement, Air Force, 1987, $32,300,000.

(b) RESCISSION.—Of the funds available for Research, Development, Test and Evaluation, Navy, 1989, $10,600,000 is hereby rescinded.

SEC. 7. PROHIBITION ON THE USE OF CERTAIN FUNDS.

(a) MILITARY OPERATIONS.—No funds available to any agency or entity of the United States Government under this Act may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, materiel, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

(b) HUMAN RIGHTS AND OTHER VIOLATIONS.—No assistance under this Act may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502(B)(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

SEC. 8. STANDARDS, PROCEDURES, CONTROLS, AND OVERSIGHT.

(a) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROL.—In implementing this Act, the Agency for International Development, and any other agency of the United States Government authorized to carry out activities under this Act, shall adopt the standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan Resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) and title IX of Public Law 100-463. Any changes in such standards, procedures, and controls shall be developed and adopted in consultation with the committees designated in subsection (b).

(b) CONGRESSIONAL OVERSIGHT.—Congressional oversight within the House of Representatives and the Senate with respect to assistance provided by this Act shall be within the jurisdiction of the Committees on Appropriations of the House of Representatives and Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

(c) EXTENSION OF PREVIOUS PROVISIONS.—The provisions of the Act of April 1, 1988 (Public Law 100-276), contained in subsections (b), (d), and (e) of section 4 and in section 5 shall apply to the provision of assistance under this Act except that section 4(d) shall not apply to the Intelligence Community.

SEC. 9. PROHIBITION.

Except as provided in this Act, no additional assistance may be provided to the Nicaraguan Resistance, unless the Congress enacts a law specifically authorizing such assistance.

SEC. 10. REPEAL.

Title IX of Public Law 100-463 is hereby repealed. 102 Stat. 2270-49.

SEC. 11. REPORTING REQUIREMENTS.

The Secretary of State shall consult regularly with and report to the Congress on progress in meeting the goals of the peace and democratization process, including the use of assistance provided in this Act.

Approved April 18, 1989.

LEGISLATIVE HISTORY—H.R. 1750 (S. 760):

HOUSE REPORTS: No. 101-23, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 13, considered and passed House. S. 760 considered in Senate; proceedings vacated and H.R. 1750 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Apr. 18, Presidential remarks.

Public Law 101-15
101st Congress

Joint Resolution

To designate April 16, 1989, and April 6, 1990, as "Education Day, U.S.A.".

Apr. 18, 1989
[H.J. Res. 173]

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement through its over one hundred and fifty centers in the United States and many more the world over has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-seventh year will be seen as the year of continued "turn and return", the year in which we continue to turn to an education which will return the world to the moral and ethical values contained in the Seven Noahide Laws;

Whereas, this year of 1989 (5749 on the Hebrew calendar) is the "40th Anniversary" in which the Rebbe completes the fourth decade since his ascension to the world leadership of the Lubavitch movement and spiritual guidance of world Jewry; and

Whereas this has been reflected in the "international scroll of honor" which has been signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 16, 1989, the eighty-seventh birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, and April 6, 1990, are each designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe each such day with appropriate ceremonies and activities. We also call on heads of state of the world to

join our President in this tribute by signing similar scrolls of honor which will be presented in their respective countries this year of the "40th Anniversary". On this occasion we would also welcome the cooperation of the Department of State in extending the good office of the United States missions to the Lubavitcher emissaries.

Approved April 18, 1989.

LEGISLATIVE HISTORY—H.J. Res. 173:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed House.
Apr. 7, considered and passed Senate.

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Public Law 101-16
101st Congress

Joint Resolution

To designate April 1989 as "National Recycling Month".

Apr. 19, 1989
[H.J. Res. 102]

Whereas a solid waste disposal crisis exists in the United States;
Whereas half of the major cities in the United States will have no space available for disposal of garbage within 4 years;
Whereas trash incineration and non-incineration industries should adopt recycling methods;
Whereas source separation, mechanical separation, and community-based recycling programs divert a significant portion of waste from landfills;
Whereas recycling preserves limited landfill capacity for disposal of nontoxic waste;
Whereas recycling saves energy and avoids the pollution created in extracting resources from their natural environment;
Whereas the revenues from goods recovered by public sector recycling programs help to offset the costs of the programs;
Whereas shared savings, which accrue by avoiding the higher cost of landfills or incineration, make recycling an economically efficient disposal policy even where markets for recycled materials are weak or undeveloped;
Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and significantly reduces the quantity of solid waste composed of metal, paper, and glass;
Whereas substantial increases in the amount of materials recycled will require development of markets that absorb the increase in the amount of materials recycled, known as incremental markets;
Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;
Whereas the Federal Government and State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;
Whereas the Federal Government and State and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;
Whereas the Federal Government and State and local governments should promote the design of products that can be recycled safely and efficiently after use;
Whereas the Federal Government and State and local governments should establish requirements for in-home separation of waste to enable efficient recycling; and
Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1989 is designated as "National Recycling Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved April 19, 1989.

LEGISLATIVE HISTORY—H.J. Res. 102 (S.J. Res. 61):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 23, considered and passed House.
Apr. 5, S.J. Res. 61 considered and passed Senate.
Apr. 6, H.J. Res. 102 considered and passed Senate.

Public Law 101-17
101st Congress

An Act

To allow an obsolete Navy drydock to be transferred to the city of Jacksonville, Florida, before the expiration of the otherwise applicable 60-day congressional review period.

Apr. 20, 1989
[H.R. 666]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer, under section 7308(a) of such title, by the Secretary of the Navy of the obsolete drydock AFDM-9 to the city of Jacksonville, Florida.

Approved April 20, 1989.

LEGISLATIVE HISTORY—H.R. 666:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 21, considered and passed House.
Apr. 5, considered and passed Senate.

Public Law 101-18
101st Congress

Joint Resolution

Apr. 20, 1989
[H.J. Res. 112]

Designating April 23, 1989, through April 29, 1989, and April 23, 1990, through April 29, 1990, as "National Organ and Tissue Donor Awareness Week".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 23, 1989, through April 29, 1989, and April 23, 1990, through April 29, 1990, as "National Organ and Tissue Donor Awareness Week".

Approved April 20, 1989.

LEGISLATIVE HISTORY—H.J. Res. 112 (S.J. Res. 56):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, S.J. Res. 56 considered and passed Senate.
Apr. 5, H.J. Res. 112 considered and passed House.
Apr. 7, considered and passed Senate.

Public Law 101-19
101st Congress

Joint Resolution

Designating May 1989 as "Older Americans Month".

May 1, 1989
[S.J. Res. 45]

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is authorized and requested to issue a proclamation designating the month of May 1989 as "Older Americans Month" and calling on the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved May 1, 1989.

LEGISLATIVE HISTORY—S.J. Res. 45:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 17, considered and passed House.

Public Law 101-20
101st Congress

Joint Resolution

May 1, 1989
[S.J. Res. 92]

To invite the houses of worship of this Nation to celebrate the bicentennial of the inauguration of George Washington, the first President of the United States, by ringing bells at 12 noon on Sunday, April 30, 1989.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the houses of worship of this Nation are invited to celebrate the 200th anniversary of the inauguration of George Washington as the first President of the United States,

(2) such houses of worship are requested to ring bells at 12 noon (12 o'clock antemeridiem eastern daylight saving time) on Sunday, April 30, 1989, the date of such anniversary, and to continue, as a tribute to the first President of this Nation, such simultaneous ringing of bells for two full minutes, and

(3) the President is authorized and requested to issue a proclamation acknowledging such celebration.

Approved May 1, 1989.

LEGISLATIVE HISTORY—S.J. Res. 92:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 101-21
101st Congress

Joint Resolution

To designate the period commencing on May 1, 1989, and ending on May 7, 1989, as "National Drinking Water Week".

May 2, 1989
[S.J. Res. 60]

Whereas water itself is God-given, and the drinking water that flows dependably through our household taps results from the dedication of men and women who operate the public water systems of collection, storage, treatment, testing, and distribution that insures that drinking water is available, affordable, and of unquestionable quality;

Whereas the advances in health effects research and water analysis and treatment technologies, in conjunction with the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339), could create major changes in the production and distribution of drinking water;

Whereas this substance, which the public uses with confidence in so many productive ways, is without doubt the single most important product in the world and a significant issue of the future;

Whereas the public expects high quality drinking water to always be there when needed; and

Whereas the public continues to increase its demand for drinking water of unquestionable quality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 1, 1989, is designated as "National Drinking Water Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, activities, and programs designated to enhance public awareness of drinking water issues and public recognition of the difference that drinking water makes to the health, safety, and quality of the life we enjoy.

Approved May 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 60:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 101-22
101st Congress

Joint Resolution

May 2, 1989
[S.J. Res. 84]

To designate April 30, 1989, as "National Society of the Sons of the American Revolution Centennial Day".

Whereas the National Society of the Sons of the American Revolution was established on April 30, 1889;

Whereas through patriotic, historical, and educational activities, the National Society of the Sons of the American Revolution perpetuates the memory of the patriots of the American Revolutionary War who achieved the independence of the United States;

Whereas the activities of the National Society of the Sons of the American Revolution are designed to inspire the descendants of the patriots of the American Revolution and the people of the United States with respect and reverence for the principles of government that were established by the patriots; and

Whereas the National Society of the Sons of the American Revolution celebrates its centennial in 1989: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 30, 1989, is designated as "National Society of the Sons of the American Revolution Centennial Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved May 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 84:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 19, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 101-23
101st Congress

Joint Resolution

To express gratitude for law enforcement personnel.

May 2, 1989
[S.J. Res. 52]

Whereas the first day of May of each year has been designated as "Law Day U.S.A." and set aside as a special day to advance equality and justice under law, to encourage citizen support for law enforcement and law observance, and to foster respect for law and an understanding of the essential place of law in the life of every citizen of the United States;

Whereas each day police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation;

Whereas each year tens of thousands of law enforcement personnel are injured or assaulted in the course of duty and many are killed;

Whereas law enforcement personnel are devoted to their jobs, are underpaid for their efforts, and are tireless in their work; and

Whereas law enforcement personnel perform their duties without adequate recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in celebration of "Law Day, U.S.A.", May 1, 1989, the grateful people of this Nation give special emphasis to all law enforcement personnel of the United States, and acknowledge the unflinching and devoted service law enforcement personnel perform as such personnel help preserve domestic tranquillity and guarantee the legal rights of all individuals of this Nation.

Approved May 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 52:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 101-24
101st Congress

Joint Resolution

May 3, 1989
[H.J. Res. 124]

To recognize the seventy-fifth anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services.

Whereas the Act of May 8, 1914 (38 Stat. 372), as amended, commonly known as the Smith-Lever Act of 1914, has fostered through the United States Department of Agriculture the development of a system of State Cooperative Extension Services in conjunction with our Nation's land-grant colleges and universities which disseminates and encourages the application of research-generated knowledge and leadership techniques to individuals, families and communities;

Whereas the Smith-Lever Act of 1914 has contributed greatly in assisting American farm families with the efficient production of a reliable supply of food and fiber for consumers in this country and worldwide;

Whereas the Cooperative Extension System has done much to help rural and urban adults and youth help themselves as they have steadily improved their quality of life and leadership ability; and

Whereas the relationship existing between the Federal, State and county extension services has provided for citizen input to research and educational programs of USDA and the land-grant universities for three quarters of a century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Cooperative Extension System should continue to be supported as an important investment in the Nation's future, and that the seventy-fifth anniversary of the enactment of the Smith-Lever Act of 1914 should be commemorated on May 8, 1989.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the enactment of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's Cooperative Extension System.

Approved May 3, 1989.

LEGISLATIVE HISTORY—H.J. Res. 124:

HOUSE REPORTS: No. 101-4 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Apr. 19, considered and passed Senate.

Public Law 101-25
101st Congress

Joint Resolution

To designate the week of May 7, 1989, through May 14, 1989, as "Jewish Heritage Week".

May 5, 1989
[S.J. Res. 25]

Whereas May 10, 1989, marks the forty-first anniversary of the founding of the State of Israel;

Whereas the months of April, May, and June contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history and traditions of the Jewish community and the contributions of Jews to our country and society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 7, 1989, through May 14, 1989, is designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities and programs.

Approved May 5, 1989.

LEGISLATIVE HISTORY—S.J. Res. 25:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 101-26
101st Congress

An Act

May 11, 1989
[H.R. 678]

To make a correction in the Education and Training for a Competitive America Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.

20 USC 5122.

Section 6142(b) of the Education and Training for a Competitive America Act of 1988 is amended by striking "fiscal year 1988" and inserting "fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, and 1992".

State and local governments.

SEC. 2. IMPACT AID.

20 USC 237.

(a) FEDERAL ACQUISITION OF REAL PROPERTY.—Section 2 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter in this section referred to as the "Act") is amended by adding at the end thereof the following new subsection (d):

"(d) Any payment made to a local educational agency for any fiscal year prior to 1987 that is attributable to an incorrect determination under subsection (a)(1)(C) shall be deemed to have been made in accordance with such subsection.".

20 USC 238.

(b) AMOUNT OF PAYMENTS.—(1) Section 3(d)(2) of the Act is amended by inserting before subparagraph (B) a new subparagraph (A) to read as follows:

"(A) For any fiscal year after September 30, 1988, the total amount of payments under subparagraph (B) may not exceed $20,000,000.".

(2) Section 3(d)(2)(B) of the Act is amended—

(A) in the third sentence by striking "80" and inserting "95"; and

(B) by striking the seventh sentence.

20 USC 240.

(c) PAYMENT PRORATION AUTHORITY.—Section 5(c)(4) of the Act is amended by striking "under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses" and inserting in lieu thereof "under paragraph (2)(B) or paragraph (3)(B), respectively, the full amounts that local educational agencies are entitled to receive under such paragraphs".

(d) PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.—Section 5(e)(1)(A) is amended to read as follows:

"(A) For any fiscal year after September 30, 1988, the Secretary shall allocate, to any local educational agency eligible for a payment under section 3(a), not less than the product of—

"(i) the number of children in average daily attendance for the fiscal year for which the determination is made under section 3(a); and

"(ii)(I) if such agency received a payment under section 3(a) in fiscal year 1987, the per pupil amount paid to that agency in fiscal year 1987; or

"(II) if such agency did not receive such a payment in fiscal year 1987, the per pupil amount such agency would have been paid in fiscal year 1987 if such agency had been eligible for payments under section 3(a) and the average daily attendance for such agency for fiscal year 1987 had been equal to the average daily attendance for such agency for the first fiscal year succeeding fiscal year 1988 for which a determination is made under section 3(a).".

(e) DISCRETIONARY ALLOCATIONS.—Paragraph (3) of section 5(e) of the Act is amended by inserting the words "subparagraph (B) of" after "under". 20 USC 240.

(f) APPLICATION DEADLINE.—The Secretary shall consider as timely filed, and shall process for payment, an application from a local educational agency that is eligible for fiscal year 1989 funds under section 2 or 3 of the Act, if such application has been certified by the State educational agency, was received by the Secretary by March 15, 1989, and is otherwise approvable. 20 USC 240 note.

SEC. 3. AMENDMENTS TO THE ADULT EDUCATION ACT.

(a) IN GENERAL.—Section 312(7) of the Adult Education Act is amended by striking "and except for the purposes of section 313,". 20 USC 1201a.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act. 20 USC 1201a note.

Approved May 11, 1989.

LEGISLATIVE HISTORY—H.R. 678:

HOUSE REPORTS: No. 101-2 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 7, considered and passed House.
Apr. 19, considered and passed Senate, amended.
Apr. 26, House concurred in Senate amendment.

Public Law 101-27
101st Congress

Joint Resolution

May 11, 1989
[S.J. Res. 62]

Designating May 1989 as "National Stroke Awareness Month".

Whereas stroke is the third leading cause of death in the United States;

Whereas stroke is the leading cause of adult disability in the United States;

Whereas stroke is a distinct disease of the brain and nervous system, causing paralysis and speech, perceptual, emotional, and cognitive impairment;

Whereas there is insufficient public knowledge of stroke prevention, treatment, and rehabilitation;

Whereas between five hundred thousand and six hundred thousand Americans are affected by a stroke each year;

Whereas between two million and three million American stroke survivors have not fully regained their physical and mental abilities and remain significantly disabled;

Whereas stroke is a sudden catastrophe that devastates families and routinely robs survivors and family caregivers of the most rewarding years of their lives;

Whereas stroke costs the United States between $12 and $13 billion annually in medical treatment, rehabilitation, and lost potential economic output;

Whereas the National Stroke Association's mission is to provide the means to reduce the incidence and effects of stroke through public and professional education, community service and research; and

Whereas increased national awareness of stroke may stimulate greater interest, concern, and participation by the American people and may lead to increased research and to reducing the overall impact of stroke in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Stroke Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved May 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 62:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed Senate.
May 2, considered and passed House.

Public Law 101-28
101st Congress

An Act

To delay the effective date of section 27 of the Office of Federal Procurement Policy Act.

May 15, 1989
[S. 968]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DELAY OF EFFECTIVE DATE.

Section 6(b) of the Office of Federal Procurement Policy Act Amendments of 1988 (Public Law 100-679; 102 Stat. 4068) is amended by striking out "180 days after the date of the enactment of this Act" and inserting in lieu thereof "July 16, 1989". 41 USC 423 note.

Approved May 15, 1989.

LEGISLATIVE HISTORY—S. 968:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 12, considered and passed Senate.
May 15, considered and passed House.

Public Law 101-29
101st Congress

Joint Resolution

May 17, 1989
[S.J. Res. 37]

Designating the week beginning May 14, 1989, and the week beginning May 13, 1990, as "National Osteoporosis Prevention Week".

Whereas osteoporosis, a degenerative bone condition, afflicts 25,000,000 people in the United States;

Whereas osteoporosis afflicts 90 percent of women over age 75;

Whereas 50 percent of all women in the United States over age 45 will develop some form of osteoporosis;

Whereas hip fractures are the most disabling outcome of osteoporosis, and 32 percent of women and 17 percent of men who live to age 90 will likely suffer a hip fracture due primarily to osteoporosis;

Whereas the mortality rates for people who suffer a hip fracture increase by 20 percent, with such fractures resulting in the death of over 50,000 older women and many older men each year;

Whereas 15 to 25 percent of people who suffer a hip fracture stay in a long-term care facility for at least one year after the fracture occurs, and 25 to 35 percent of people who return home from a long-term care facility after recovering from a hip fracture require assistance with daily living after returning home;

Whereas the total cost to society of dealing with osteoporosis was over $10,000,000,000 in 1988 and such cost is expected to rise as the population ages;

Whereas osteoporosis is associated with the loss of bone mass due to a lack of estrogen as a result of menopause, alcohol or cigarette use, and low calcium intake;

Whereas exercise and proper nutrition before an individual is age 35 will build bone mass to help prevent osteoporosis; and

Whereas people who suffer from osteoporosis should be aware of the increased risk of bone fractures, and should take precautions to reduce the chance of accidents that may result in bone fractures due primarily to osteoporosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 14, 1989, and the week beginning May 13, 1990, are designated as "National Osteoporosis Prevention Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved May 17, 1989.

LEGISLATIVE HISTORY—S.J. Res. 37:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
May 9, considered and passed House, amended.
May 10, Senate concurred in House amendments.

Public Law 101-30
101st Congress

An Act

May 17, 1989
[H.R. 1385]

To make permanent the Martin Luther King, Jr., Federal Holiday Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Martin Luther King, Jr., Federal Holiday Commission Extension Act.
36 USC 169j note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Martin Luther King, Jr., Federal Holiday Commission Extension Act".

SEC. 2. REMOVAL OF TERMINATION.

36 USC 169j-8.

(a) REMOVAL.—Section 9 of Public Law 98-399 (98 Stat. 1475) is amended to read as follows:

"SEC. 9. The Commission shall continue in existence until April 20, 1994.".

(b) CONFORMING AMENDMENTS.—

36 USC 169j.

(1) FINDINGS.—Paragraph (3) of the first section of Public Law 98-399 (98 Stat. 1473) is amended by striking "first".

36 USC 169j-2.

(2) PURPOSES.—Section 3(1) of Public Law 98-399 (98 Stat. 1473) is amended by striking "first occurs on January 20, 1986" and inserting "occurs on the third Monday in January each year".

36 USC 169j-8 note.

(c) REESTABLISHMENT AFTER TERMINATION.—If the date of the enactment of this Act occurs on or after April 20, 1989, the Martin Luther King, Jr., Federal Holiday Commission shall be reestablished on the date of the enactment of this Act with the same members and powers that the Commission had, as provided in Public Law 98-399 (98 Stat. 1473), on April 19, 1989 (subject to this Act and the amendments made by this Act).

SEC. 3. MEMBERSHIP.

(a) TERMS IN GENERAL.—Section 4(c) of Public Law 98-399 (98 Stat. 1474) is amended to read as follows:

36 USC 169j-3.

"(c)(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed not later than June 1 of each year for terms of 1 year, and any vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any vacancy in the Commission shall not affect its powers.

Coretta Scott King.

"(2) Coretta Scott King shall serve as a member for life. In the event of a vacancy, her position on the Commission shall be filled by a member of the family surviving Martin Luther King, Jr., not already a member of the Commission, who shall be appointed by the family and shall serve as a member of the Commission at the discretion of the family.

"(3) The 2 members of the Commission appointed as members of the family surviving Martin Luther King, Jr., shall serve as members of the Commission at the discretion of the family.".

36 USC 169j-3 note.

(b) CONTINUATION OF TERMS OF EXISTING MEMBERS.—The individuals who are members of the Commission on the date of the enactment of this Act shall be considered to have been appointed

members for a term ending on the first June 1 that occurs after the date of the enactment of this Act (pursuant to section 4(a) of Public Law 98-399 (98 Stat. 1473) or section 2(c) of this Act, as appropriate).

SEC. 4. RESTRICTIONS ON ACTIVITIES OF THE COMMISSION.

Section 6 of Public Law 98-399 (98 Stat. 1474) is amended by adding at the end thereof the following new subsection: 36 USC 169j-5.

"(c) In carrying out the responsibilities of the Commission under this Act, the Commission shall not make any expenditures, or receive or utilize any assistance in the form of the use of office space, personnel, or any other assistance authorized under subsection (b), for any of the following purposes—

"(A) training activities for the purpose of directing or encouraging—

"(i) the organization or implementation of campaigns to protest social conditions, and

"(ii) any form of civil disobedience.".

SEC. 5. REPORTS.

Section 8 of Public Law 98-399 (98 Stat. 1475) is amended by striking the period at the end and inserting the following: "with respect to the most recent observance of the Federal legal holiday honoring the birthday of Martin Luther King, Jr.". 36 USC 169j-7.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 7 of Public Law 98-399 (98 Stat. 1474) is amended to read as follows: 36 USC 169j-6.

"SEC. 7. There are authorized to be appropriated to carry out this Act $300,000 for fiscal year 1989 and each of the 4 succeeding fiscal years.".

(b) CONFORMING AMENDMENTS.—

(1) EXPENSES OF MEMBERS.—Section 4(d) of Public Law 98-399 (98 Stat. 1474) is amended by striking "subject to section 7" and inserting "subject to the availability of sufficient funds". 36 USC 169j-3.

(2) PAY FOR STAFF.—Section 6(a) of Public Law 98-399 (98 Stat. 1474) is amended by striking "Subject to section 7" and inserting "Subject to the availability of sufficient funds". 36 USC 169j-5.

SEC. 7. REPEALER.

Section 5(c) of Public Law 98-399 (98 Stat. 1474) is repealed. 36 USC 169j-4.

SEC. 8. BRONZE REPLICA OF DECLARATION OF INDEPENDENCE.

(a) The Congress finds that:

(1) The ideas expressed in the Declaration of Independence have inspired freedom-loving people throughout the world.

(2) The eloquent language of the Declaration of Independence has stirred the hearts of the American people.

(3) The Declaration of Independence ranks as one of the greatest documents in human history.

(4) On July 2, 1952, a bronze replica of the Declaration of Independence was presented to Congress for display in the Rotunda of the United States Capitol.

(5) On July 22, 1988, the bronze replica of the Declaration of Independence was moved from the Rotunda of the Capitol to the small House Rotunda between the Capitol Rotunda and Statuary Hall.

(6) The bronze replica of the Declaration of Independence was replaced in the Rotunda by a bust of Martin Luther King, Jr.

(b) It is the sense of the Congress that the bronze replica of the Declaration of Independence should, forthwith, be returned to a place of prominence in the Rotunda of the United States Capitol where it shall remain on permanent display.

Approved May 17, 1989.

LEGISLATIVE HISTORY—H.R. 1385 (S. 431):

HOUSE REPORTS: No. 101-26 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 17, considered and passed House.
May 1, S. 431 considered in Senate.
May 2, H.R. 1385 considered and passed Senate, amended, in lieu of S. 431.
May 9, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
May 17, Presidential remarks.

Public Law 101-31
101st Congress

Joint Resolution

To designate the week beginning May 7, 1989, as "National Correctional Officers Week".

May 22, 1989
[H.J. Res. 135]

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas correctional officers had been similarly honored by many States and localities;

Whereas correctional officers had been similarly honored by a joint resolution of the Senate and House of Representatives of the United States in Congress assembled in 1984, 1985, and 1987; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing May 7, 1989, hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 22, 1989.

LEGISLATIVE HISTORY—H.J. Res. 135:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 2, considered and passed House.
May 9, considered and passed Senate.

Public Law 101-32
101st Congress

Joint Resolution

May 22, 1989
[S.J. Res. 58]

To designate May 17, 1989, as "High School Reserve Officer Training Corps Recognition Day".

Whereas in 1916 the Congress authorized the establishment of high school divisions of the Reserve Officer Training Corps;

Whereas hundreds of high schools across the United States, and United States operated high schools abroad, offer High School Reserve Officer Training Corps programs of the various military services;

Whereas High School Reserve Officer Training Corps programs have provided a valuable and unique learning opportunity for hundreds of thousands of high school students for almost four generations;

Whereas the programs of instruction for High School Reserve Officer Training Corps units concentrate on the development of desirable traits in its participants, such as good citizenship, leadership, teamwork, individual initiative, and pride and respect for the United States, its flag, laws, and Constitution;

Whereas the High School Reserve Officer Training Corps programs, being highly successful in developing desirable traits in its participants, have made a valuable contribution to the United States and to the education of the youth of our Nation;

Whereas it is appropriate to acknowledge and honor the contribution of the High School Reserve Officer Training Corps, and its cadets and instructors, both past and present; and

Whereas May 17, 1989, marks the seventy-third anniversary of the authorization of the High School Reserve Officer Training Corps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 17, 1989, is hereby designated as "High School Reserve Officer Training Corps Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 22, 1989.

LEGISLATIVE HISTORY—S.J. Res. 58:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
May 16, considered and passed House.

Public Law 101-33
101st Congress

Joint Resolution

To designate the month of May 1989, as "Trauma Awareness Month".

May 23, 1989
[S.J. Res. 68]

Whereas more than eight million individuals in the United States suffer traumatic injury each year;
Whereas traumatic injury is the leading cause of death of individuals of less than forty years of age in the United States;
Whereas every individual is a potential victim of traumatic injury;
Whereas traumatic injury can occur without warning;
Whereas traumatic injury frequently renders its victims incapable of caring for themselves;
Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;
Whereas the people of the United States spend more than $110,000,000,000 annually on the problem of trauma;
Whereas the problem of trauma can be remedied only by prevention and proper treatment through emergency medical services and trauma systems; and
Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical services and trauma systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved May 23, 1989.

LEGISLATIVE HISTORY—S.J. Res. 68:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 16, considered and passed Senate.
May 9, considered and passed House.

Public Law 101-34
101st Congress

Joint Resolution

May 25, 1989
[H.J. Res. 170]

Designating May 1989, as "National Digestive Disease Awareness Month".

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality;

Whereas twenty million Americans suffer from chronic digestive diseases;

Whereas more than fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized with digestive diseases than any other type of disease;

Whereas digestive diseases necessitate 25 per centum of all surgical operations;

Whereas digestive diseases are one of the most prevalent causes of disability in the work force;

Whereas in the United States digestive diseases cause yearly expenditures of over $17 billion in direct health care costs and a total annual economic burden of nearly $50 billion;

Whereas more than one hundred different digestive diseases, and other disorders of the gastrointestinal tract, each cause more than two hundred thousand deaths each year;

Whereas there has been interest on the part of the research community in the causes, cures, prevention, and clinical treatment of digestive diseases and related nutritional problems;

Whereas the people of the United States should recognize prevention and treatment of digestive diseases as a major health priority;

Whereas national organizations, such as the Digestive Disease National Coalition, are committed to increasing awareness and understanding of digestive diseases in the health care community and among members of the general public;

Whereas the National Institutes of Health, through the National Digestive Disease Information Clearinghouse and the National Digestive Diseases Advisory Board, is committed to encouraging and coordinating such educational efforts;

Whereas the National Digestive Disease Education Program is a coordinated effort to educate the public and the health care community on the seriousness of digestive diseases and to provide information relative to the treatment, prevention, and control of digestive diseases; and

Whereas May 1989 marks the seventh anniversary of the National Digestive Disease Education Program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Digestive Disease Awareness Month", and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved May 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 170:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 9, considered and passed House.
May 16, considered and passed Senate.

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Public Law 101-35
101st Congress

Joint Resolution

May 25, 1989
[H.J. Res. 247]

Designating May 29, 1989, as the "National Day of Remembrance for the Victims of the USS IOWA".

Whereas the USS Iowa, a battleship in the Navy on maneuvers in the Atlantic Ocean, on April 19, 1989, suffered a tragic explosion in its second forward gun turret;

Whereas the explosion killed 47 heroic crewmembers of the USS Iowa;

Whereas the people of the United States are filled with sorrow because of the explosion and extend to the families of the victims their utmost sympathy; and

Whereas Memorial Day is observed on May 29, 1989, and honors those who have died while serving in the Armed Forces: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 29, 1989, is designated as the "National Day of Remembrance for the Victims of the USS IOWA", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 247:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 9, considered and passed House.
May 11, considered and passed Senate.

Public Law 101-36
101st Congress

Joint Resolution

Authorizing a first strike ceremony at the United States Capitol for the Bicentennial of the Congress Commemorative Coin.

June 9, 1989
[S.J. Res. 128]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF A FIRST STRIKE CEREMONY AT THE UNITED STATES CAPITOL FOR THE BICENTENNIAL OF THE CONGRESS COMMEMORATIVE COIN.

31 USC 5112 note.

(a) On June 14, 1989, or any other date that the President pro tempore of the Senate and the Speaker of the House of Representatives jointly designate, a first strike ceremony may be conducted at the United States Capitol and on the Capitol Grounds to strike coins authorized by the Bicentennial of the United States Congress Commemorative Coin Act (Public Law 100-673).

(b) All activities of and preparations for the ceremony authorized by subsection (a), including the striking and distribution of coins, shall be jointly coordinated with the Commissions on the Bicentennials of the United States Senate and the United States House of Representatives and the Secretary of the Treasury.

(c) Notwithstanding the Bicentennial of the United States Congress Commemorative Coin Act or any other provision of law, the United States Mint may strike coins authorized by the Bicentennial of the United States Congress Commemorative Coin Act in Washington, District of Columbia, during first strike ceremonies conducted as authorized by subsection (a). Such coins shall bear the mint mark of the mint facility which is designated to strike the coins.

SEC. 2. RESPONSIBILITY OF CONGRESSIONAL OFFICERS AND PHYSICAL PREPARATIONS.

31 USC 5112 note.

(a) Under the direction of the President pro tempore of the Senate and the Speaker of the House, the Secretary of the Senate, the Clerk of the House, the Architect of the Capitol, and the Capitol Police Board shall take any action necessary to carry out section 1.

(b) The Architect of the Capitol may prescribe conditions for physical preparations for the ceremony authorized in section 1.

Approved June 9, 1989.

LEGISLATIVE HISTORY—S.J. Res. 128:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 10, considered and passed Senate.
May 23, considered and passed House.

Public Law 101-37
101st Congress

An Act

June 15, 1989
[S. 767]

To make technical corrections to the Business Opportunity Development Reform Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Business Opportunity Development Reform Act Technical Corrections Act.
15 USC 631 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Opportunity Development Reform Act Technical Corrections Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of the Business Opportunity Development Reform Act of 1988 (hereinafter referred to as "the Act") is amended—

(1) in item 713, by striking "Procurements" and inserting "Procurement"; and

(2) in item 722, by striking "participating" and inserting "participation".

SEC. 3. DEFINITIONS.

15 USC 636 note.

Section 2 of the Act is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) the term 'Business Opportunity Specialist' means the Administration employee responsible for providing business development assistance to Program Participants pursuant to sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a));"; and

(3) in paragraph (6), as redesignated—

(A) by striking "Small Business" and inserting "Minority Small Business", and

(B) by inserting before the semicolon the following: ", unless otherwise indicated".

SEC. 4. PROGRAM ELIGIBILITY.

Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11)) is amended—

(1) by striking subparagraph (B) and inserting the following:

"(B)(i) Except as provided in clause (iii), no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

"(ii) Except as provided in clause (iii), any individual upon whom eligibility is based pursuant to section 8(a)(4) shall be

permitted to assert such eligibility for only one small business concern.

"(iii) A socially and economically disadvantaged Indian tribe may own more than one small business concern eligible for assistance pursuant to section 7(j)(10) and section 8(a) if— Indians.

"(I) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

"(II) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.";

(2) in the first sentence of subparagraph (E), by striking "Office of the Associate Administrator for Minority Small Business" and inserting "Office of Minority Small Business";

(3) in the second sentence of subparagraph (E), by striking "such Associate Administrator" and inserting "the Associate Administrator for Minority Small Business and Capital Ownership Development";

(4) in subparagraph (F)(v), by striking "with the Associate Administrator" and inserting "to the Associate Administrator";

(5) in subparagraph (F), by striking clause (vi) and inserting:

"(vi) make recommendations to the Associate Administrator for Minority Small Business and Capital Ownership Development concerning protests from applicants that have been denied program admission;";

(6) in subparagraph (F)(viii), by striking "subparagraph (H)" and inserting "subparagraph (I)";

(7) in subparagraph (G)(ii), by striking "participants" and inserting "Participants";

(8) by redesignating subparagraph (H) as subparagraph (I); and

(9) by inserting after subparagraph (G) the following:

"(H) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall certify a small business concern as a Program Participant or shall deny such application.".

SEC. 5. BUSINESS PLANS.

(a) IN GENERAL.—Section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) is amended by striking "which sets forth" and inserting "which set forth".

(b) CONTENTS OF PLAN.—Section 7(j)(10)(D) of the Small Business Act (15 U.S.C. 636(j)(10)(D)) is amended—

(1) in the first sentence of clause (i), by striking "business opportunity specialist" and inserting "Business Opportunity Specialist";

(2) in clause (ii)(II), by striking "small business concerns" and inserting "the small business concern";

(3) in clause (iii), by inserting before the end period the following: "relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a)";

(4) in clause (iv), by striking "contact awards" and inserting "contract awards"; and

(5) in clause (iv)(I), by inserting before the second comma the following: "relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a)".

SEC. 6. ELIGIBILITY REVIEWS AND ELIGIBILITY OF NATIVE HAWAIIANS.

(a) ELIGIBILITY REVIEW.—Section 7(j)(10)(J)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(J)(i)) is amended by striking "suspended or terminated" and inserting "suspended".

(b) ELIGIBILITY OF NATIVE HAWAIIANS.—Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)) is amended by striking "organizations" and inserting "Organization".

15 USC 631. (c) Section 207(b) of the Act is amended by striking "(15 U.S.C. 631(e)(2)(C))" and inserting "(15 U.S.C. 631(e)(1)(C))".

(d) DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended—

(1) in clause (i), by inserting "unconditionally" after "per centum"; and

(2) in clause (ii), by inserting "unconditionally" before "owned by".

SEC. 7. TERMINATION AND GRADUATION STANDARDS.

(a) IN GENERAL.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) by striking subparagraph (E)(ii) and inserting:

"(ii) completes the period of Program participation as prescribed by paragraph (15);";

(2) by striking the first subparagraph (F); and

(3) in subparagraph (F), by striking the first sentence and inserting the following: "For purposes of this section and section 8(a), the term 'terminated' and the term 'termination' means the total denial or suspension of assistance under this paragraph or under section 8(a) prior to the graduation of the participating small business concern or prior to the expiration of the maximum program participation term.".

(b) ECONOMIC DISADVANTAGE.—Section 8(a)(6)(C)(iii) of the Small Business Act (15 U.S.C. 637(a)(6)(C)(iii)) is amended by striking out "section 7(j)(10)(H)" and inserting "section 7(j)(10)(G)".

SEC. 8. STAGES OF PROGRAM PARTICIPATION.

(a) IN GENERAL.—Section 7(j)(12) of the Small Business Act (15 U.S.C. 636(j)(12)) is amended—

(1) in subparagraph (A), by striking "development" and inserting "developmental"; and

(2) in subparagraph (B), by inserting "in its effort" after "to assist the concern".

(b) DEVELOPMENTAL STAGE.—Section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)) is amended by striking the second sentence and inserting the following: "Such assistance may be made without regard to section 18(a). Assistance may be made by direct payment to the training provider or by reimbursing the Program Participant or the Participant's employee, if such reimbursement is found to be reasonable and appropriate.".

SEC. 9. LOANS.

Section 7(a)(20) of the Small Business Act (15 U.S.C. 636(a)(20)) is amended in subparagraph (C)(iv), by inserting "is" before "amortized".

SEC. 10. CONTRACTUAL ASSISTANCE.

(a) CITATION.—Section 303(a) of the Act is amended by striking "15 U.S.C. 363(j)(10)" and inserting "15 U.S.C. 636(j)(10)". 15 USC 636.

(b) COMPETITIVE BUSINESS MIX.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended by striking "(i) During the developmental stage" and inserting "(I)(i) During the developmental stage".

(c) COMPETITIVE THRESHOLDS.—Section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) is amended by striking "program participants" and inserting "Program Participants".

(d) OPTIONS.—Section 303(f)(2) of the Act is amended by inserting "active" before "contracts previously awarded". 15 USC 637 note.

(e) NON-MANUFACTURER RULE.—Section 8(a)(17)(B) of the Small Business Act (15 U.S.C. 637(a)(17)(B)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(2) by inserting after clause (i) the following:

"(ii) be a small business concern under the numerical size standard for the Standard Industrial Classification Code assigned to the contract solicitation on which the offer is being made;".

SEC. 11. STATUS OF THE ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 401(a) of the Act is amended by striking "In Section" and inserting "Section". 15 USC 633.

(b) CAREER POSITION.—Section 401(b) of the Act is amended by striking "of the Act" and inserting "of the Small Business Act". 15 USC 633 note.

SEC. 12. PROHIBITED ACTIONS AND EMPLOYEE RESPONSIBILITIES.

Section 8(a)(18)(A) of the Small Business Act (15 U.S.C. 637(a)(18)(A)) is amended by striking "certified".

SEC. 13. POLITICALLY MOTIVATED ACTIVITIES.

Section 8(a)(19)(B) of the Small Business Act (15 U.S.C. 637(a)(19)(B)) is amended by striking ", imposed by the Administrator,".

SEC. 14. REPORTS BY PROGRAM PARTICIPANTS.

Section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended by striking "business opportunity specialist" and inserting "Business Opportunity Specialist".

SEC. 15. CONGRESSIONALLY REQUESTED INVESTIGATIONS.

Section 10(e)(2) of the Small Business Act (15 U.S.C. 639(e)(2)) is amended by striking "of the disposition of the matter" and inserting ", of the disposition of the request".

SEC. 16. CONTRACT PERFORMANCE.

Section 8(a)(21) of the Small Business Act (15 U.S.C. 637(a)(21)) is amended—

(1) in subparagraph (B), by striking "The Administrator may, as a matter of discretion and on a nondelegable basis, waive the

requirements of subparagraph (A) if requested to do so prior to the actual relinquishment of ownership or control. In addition to the requirement of the preceding sentence, a waiver may be given only if any of the following conditions exist:" and inserting the following: "The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if one of the following conditions exist:"; and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following:

"(C) The Administrator may waive the requirements of subparagraph (A) if—

"(i) in the case of subparagraph (B) (i), (ii) and (iv), he is requested to do so prior to the actual relinquishment of ownership or control; and

"(ii) in the case of subparagraph (B)(iii), he is requested to do so as soon as possible after the incapacity or death occurs.".

SEC. 17. DUE PROCESS RIGHTS.

Section 8(a)(9) of the Small Business Act (15 U.S.C. 637(a)(9)) is amended—

(1) in subparagraph (A), by striking "Administrator" and inserting "Administration";

(2) in subparagraph (B)(iii), by striking "section 7(j)(10)(H)" and inserting "section 7(j)(10)(G)"; and

(3) in subparagraph (C), by striking "Administrator's" and inserting "Administration's".

SEC. 18. EMPLOYEE TRAINING AND EVALUATION.

15 USC 636 note.

Section 410 of the Act is amended—

(1) in subsection (a), by striking "Training Requirements for Business Specialists" and inserting "Training Requirements for Business Opportunity Specialists"; and

(2) in subsection (c)(2), by striking "subsection (a)" and inserting "subsection (b)".

SEC. 19. PRESIDENTIAL REPORT ON CONTRACTING GOALS.

Section 15(h)(2)(A) of the Small Business Act (15 U.S.C. 644(h)(2)(A)) is amended by inserting "individuals" after "economically disadvantaged".

SEC. 20. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

15 USC 636 note.

Section 505 of the Act is amended—

(1) in subsection (b)(1)(B)(ii), by striking "program participants" each place it appears and inserting "Program Participants";

(2) in subsection (b)(1)(C), by striking "subparagraph (B)" and inserting "subparagraph (A)";

(3) in subsection (b)(2)(C), by striking "each such subparagraph" and inserting "paragraph (1)";

(4) in subsection (c)(3), by striking "such subparagraphs" and inserting "subparagraphs (B), (C), and (D)";

(5) in subsection (c)(6)(B), by striking "paragraph 2" and inserting "subsection (b)(2)";

(6) in subsection (d)(1)(B), by striking "531(b)" and inserting "5311(b)";

(7) by adding at the end of subsection (d) the following: "(C) To facilitate the expeditious initiation of the Commission's activities, the Administrator of the Small Business Administration shall designate an Executive Secretary and provide such additional interim staff and support services as the Administrator deems appropriate until the time of the Commission's organizational meeting and the designation of its Executive Director, or such longer time as may be agreed upon by the Administrator and the Chairperson of the Commission.";

(8) in subsection (f), by striking "cease to exist on" and inserting "cease to exist within 90 days after"; and

(9) in subsection (g), by striking "authorized in the section" and inserting "authorized in this section".

SEC. 21. RELATIONSHIP WITH OTHER PROCUREMENT PROGRAMS.

Section 15(m)(1)(A) of the Small Business Act (15 U.S.C. 644(m)(1)(A)) is amended by striking "procedure" and inserting "procedures".

SEC. 22. INDIAN TRIBE EXEMPTIONS.

Section 602 of the Act is amended— 15 USC 637 note.

(1) in subsection (a), by striking "Section 8(a)(16) of the Small Business Act" and inserting "Section 8(a)(1)(D) of the Small Business Act,";

(2) in subsection (b)(2)(B), by inserting after "reservation" "or former reservation of such tribe as determined by the Secretary of the Interior";

(3) in subsection (b)(2)(C), by inserting ", or such former reservation" before the semicolon; and

(4) by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 23. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

Section 711(a) of the Act is amended by inserting "in this title" after "referred to". 15 USC 644 note.

SEC. 24. ENHANCED SMALL BUSINESS PARTICIPATION GOALS.

Section 712(b)(1) of the Act is amended by striking "section 718" and inserting "section 717". 15 USC 644 note.

SEC. 25. PROCUREMENT PROCEDURES AND REPORTING.

(a) PROCUREMENT PROCEDURES.—Section 713(a) of the Act is amended by striking "$25,000 or more" and inserting "more than $25,000". 15 USC 644 note.

(b) REPORTING.—Section 714(c)(2) of the Act is amended by striking "section 712(d)" and inserting "section 712(c)".

SEC. 26. DESIGNATED INDUSTRY GROUPS.

Section 717(b)(2) of the Act is amended to read as follows: 15 USC 644 note.

"(2) Major Group 16 (Heavy Construction Other Than Building Construction—Contractors) (excluding dredging);".

SEC. 27. DEFINITION OF PARTICIPATING AGENCY.

Section 718(c) of the Act is amended— 15 USC 644 note.

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) the Department of the Interior,"; and

(2) in paragraph (8), as redesignated, by inserting "with" before "the Public Building Service".

SEC. 28. ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.

15 USC 644 note.

Section 721 of the Act is amended—

(1) by inserting "(10 U.S.C. 2301 note)" after "Fiscal Year 1987" in subsection (a)(2)(B); and

(2) by adding at the end thereof the following:

"(c) PROGRAM TERM.—The Program shall commence on January 1, 1989, and terminate on September 30, 1992.

"(d) REPORT.—The Secretary of Defense shall issue reports to the Congress on the operations of the program established pursuant to this section. Such reports shall detail the effects of the program on the mobilization base and on small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Interim reports shall be submitted every 6 months during the term of the program to the Committees on Armed Services and Small Business of the House of Representatives and the Senate.".

SEC. 29. EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.

15 USC 644 note.

Section 722 of the Act is amended—

(1) in subsection (a), by adding before the end period the following: "solicited on or after January 1, 1989";

(2) in subsection (d)(1)(B), by inserting "foster" before "joint ventures";

(3) in subsection (d)(1)(C), by inserting "foster" before "subcontracting through"; and

(4) in subsection (f), by inserting ", regarding compliance with this section" at the end of paragraph (1), and by striking paragraph (3).

SEC. 30. REGULATIONS.

15 USC 636 note.

Section 801(3) of the Act is amended by striking "two hundred and ten days" and inserting "270 days".

SEC. 31. AMENDMENTS TO EFFECTIVE DATES.

15 USC 631 note.

Section 803 of the Act is amended—

(1) in subsection (b)(3)(B), by striking "Sections 302 and" and inserting "Section";

(2) in subsection (b), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Section 302 shall take effect on June 1, 1989."; and

(3) in paragraph (1) of subsection (b), by striking "June 1, 1989" and inserting "August 15, 1989".

SEC. 32. EFFECTIVE DATES OF THIS ACT. 15 USC 631 note.

The amendments made by this Act shall apply as if included in the Business Opportunity Development Reform Act of 1988.

Approved June 15, 1989.

LEGISLATIVE HISTORY—S. 767 (H.R. 1764):

HOUSE REPORTS: No. 101-74 accompanying H.R. 1764 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 19, considered and passed Senate.
June 6, considered and passed House.

Public Law 101-38
101st Congress

Joint Resolution

June 19, 1989
[H.J. Res. 274]

To designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week".

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;

Whereas approximately 300,000 people in the United States suffer from scleroderma;

Whereas women are afflicted by scleroderma 3 times more often than men;

Whereas scleroderma is a chronic and often progressive illness that can result in death;

Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease and is considered to be under-studied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 11, 1989, is designated as "National Scleroderma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved June 19, 1989.

LEGISLATIVE HISTORY—H.J. Res. 274:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 13, considered and passed House.
June 14, considered and passed Senate.

Public Law 101-39
101st Congress

Joint Resolution

Designating June 14, 1989, as "Baltic Freedom Day", and for other purposes.

June 19, 1989
[S.J. Res. 63]

Whereas the people of the republics of Lithuania, Latvia, and Estonia (hereinafter referred to as the "Baltic Republics") have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics existed as independent, sovereign nations and as fully recognized members of the League of Nations;

Whereas 1989 marks the 50th anniversary of the infamous Molotov-Ribbentrop Pact in which the Soviet Union colluded with Nazi Germany, thus allowing the Soviet Union in 1940 to illegally seize and occupy the Baltic Republics and to incorporate such republics by force into the Soviet Union against the national will and the desire for independence and freedom of the people of such republics;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, 20 percent of the total population of the Baltic Republics had been lost;

Whereas the people of the Baltic Republics have individual and separate cultures and national traditions and languages which are distinctively foreign to those of Russia;

Whereas since 1940, the Soviet Union has systematically implemented Baltic genocide by deporting native Baltic peoples from Baltic homelands to forced labor and concentration camps in Siberia and elsewhere;

Whereas by relocating masses of Russians to the Baltic Republics, the Soviet Union has threatened the Baltic cultures with extinction through russification;

Whereas through a program of russification, the Soviet Union has introduced ecologically unsound industries without proper safeguards into the Baltic Republics, and the presence of such industries has resulted in deleterious effects on the environment and well-being of the Baltic people;

Whereas the Soviet Union, despite recent pronouncements of openness and restructuring, has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberty, and religious freedom;

Whereas the people of the Baltic Republics are subjugated by the Soviet Union, are locked into a union such people deplore, are denied basic human rights, and are persecuted for daring to protest;

Whereas the Soviet Union refuses to abide by the Helsinki accords which the Soviet Union voluntarily signed;

Whereas the United States stands as a champion of liberty, is dedicated to the principles of national self-determination, human rights, and religious freedom, and is opposed to oppression and imperialism;

Whereas the United States, as a member of the United Nations, had repeatedly voted with a majority of that international body to uphold the right of other countries of the world to self-determination and freedom from foreign domination;

Whereas the Soviet Union has steadfastly refused to return to the people of the Baltic Republics the right to exist as independent republics, separate and apart from the Soviet Union, or to permit a return of personal, political and religious freedoms; and

Whereas 1989 marks the 49th anniversary of the continued policy of the United States of not recognizing the illegal forcible occupation of the Baltic Republics by the Soviet Union: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and right of the people of the Baltic Republics for freedom and independence from the domination of the Soviet Union;

(2) the Congress deplores the refusal of the Soviet Union to recognize the sovereignty of the Baltic Republics and to yield to the rightful demands for independence from foreign domination and oppression by the people of the Baltic Republics;

(3) June 14, 1989, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, is designated as "Baltic Freedom Day", as a symbol of the solidarity of the people of the United States with the aspirations of the enslaved Baltic people; and

(4) the President is authorized and requested—

(A) to issue a proclamation calling upon the people of the United States to observe Baltic Freedom Day with appropriate ceremonies and activities, and

(B) to call upon the Soviet Union, the Federal Republic of Germany, and the Democratic Republic of Germany to renounce the acquisition or absorption of the Baltic Republics by the Soviet Union as a result of the Molotov-Ribbentrop Pact.

Approved June 19, 1989.

LEGISLATIVE HISTORY—S.J. Res. 63:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
June 13, considered and passed House.

Public Law 101-40
101st Congress

An Act

To correct an error in Private Law 100-29 (relating to certain lands in Lamar County, Alabama) and to make technical corrections in certain other provisions of law.

June 20, 1989
[H.R. 964]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANDS IN LAMAR COUNTY, ALABAMA.

Section 1(b) of Private Law 100-29 is hereby amended by striking out "the northwest quarter southeast quarter of section 14" and by inserting in lieu thereof "the northwest quarter southwest quarter of section 14". 102 Stat. 4855.

SEC. 2. TECHNICAL CORRECTIONS; WILD AND SCENIC RIVERS ACT.

(a) NUMBERING OF DESIGNATED RIVERS.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended as follows: 16 USC 1274.

(1) Number the unnumbered paragraph relating to the Merced River in California as "(62)".

(2) Redesignate paragraph (62) relating to the Kings River in California as paragraph "(63)".

(3) Number the unnumbered paragraph relating to the Kern River in California as "(64)".

(4) Number the unnumbered paragraph relating to the Bluestone River in West Virginia as "(65)".

(5) Number the unnumbered paragraph relating to the Sipsey River in Alabama as "(66)".

(6) Redesignate paragraph (65) relating to the Wildcat Brook in New Hampshire as paragraph "(67)".

(7) Number the unnumbered paragraphs relating to rivers in Oregon added to the national wild and scenic rivers system by the Omnibus Oregon Wild and Scenic Rivers Act of 1988 (Public Law 100-557) as follows: Big Marsh Creek, "(68)", the Chetco, "(69)", the Clackamas, "(70)", Crescent Creek, "(71)", the Crooked, "(72)", the Deschutes, "(73)", the Donner und Blitzen, "(74)", Eagle Creek, "(75)", the Elk, "(76)", the Grande Ronde, "(77)", the Imnaha, "(78)", the John Day, "(79)", Joseph Creek, "(80)", the Little Deschutes, "(81)", the Lostine, "(82)", Malheur, "(83)", McKenzie, "(84)", Metolius, "(85)", Minam, "(86)", North Fork Crooked, "(87)", North Fork, John Day, "(88)", North Fork Malheur, "(89)", North Fork of the Middle Fork of the Williamette, "(90)", North Fork Owyhee, "(91)", North Fork Smith, "(92)", North Fork, Sprague, "(93)", North Powder, "(94)", North Umpqua, "(95)", Powder, "(96)", Quartzville Creek, "(97)", Roaring, "(98)", Salmon, "(99)", Sandy, "(100)", South Fork John Day, "(101)", Squaw Creek, "(102)", Sycan, "(103)", Upper Rogue, "(104)", Wenaha, "(105)", West Little Owyhee, "(106)", and White, "(107)".

(8) Number the unnumbered paragraph relating to the Rio Chama in New Mexico as "(108)".

16 USC 1276.

(b) NUMBERING OF STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended as follows:

(1) Redesignate paragraph (96) relating to the Merced River in California as paragraph "(99)".

(2) Number the unnumbered paragraphs relating to rivers in Oregon designated by the Omnibus Oregon Wild and Scenic Rivers Act of 1988 (Public Law 100-557) for study for potential inclusion in the national wild and scenic rivers system as follows: Blue, "(100)", Chewaucan, "(101)", North Fork Malheur, "(102)", South Fork McKenzie, "(103)", Steamboat Creek, "(104)", and Wallowa, "(105)".

SEC. 3. MILITARY LANDS WITHDRAWAL ACT OF 1986.

100 Stat. 3459.

Section 2(c) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606) is amended by striking "the office of the commander, Barry M. Goldwater Air Force Base" and inserting "the office of the commander, Luke Air Force Base".

SEC. 4. TECHNICAL CORRECTIONS REGARDING THE MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Title VII of Public Law 100-696 is amended as follows:

16 USC 460zz-4.

(1) In the third sentence of section 705(a), strike "Our" and insert "Other".

16 USC 460zz-2.

(2) In section 703(d), strike "to serve" and insert "and shall serve".

Approved June 20, 1989.

LEGISLATIVE HISTORY—H.R. 964:

HOUSE REPORTS: No. 101-20 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-35 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
June 2, considered and passed Senate.

Public Law 101-41
101st Congress

An Act

To provide for the settlement of land claims, and the resolution of certain issues of governmental jurisdiction, of the Puyallup Tribe of Indians in the State of Washington, and for other purposes.

June 21, 1989
[H.R. 932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Puyallup Tribe of Indians Settlement Act of 1989.
25 USC 1773 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puyallup Tribe of Indians Settlement Act of 1989".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

25 USC 1773 note.

(a) FINDINGS.—The Congress finds and declares that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) Disputes over certain land claims of the Puyallup Tribe and other matters, including—

(A) ownership of the Commencement Bay tidelands and areas of former Puyallup Riverbed, lands within the Puyallup Tribe's Treaty Reservation, or intended reservation boundaries,

(B) railroad and other rights-of-way,

(C) control of fisheries resource and habitat,

(D) jurisdiction over law enforcement, environment, navigation, and authority and control in the areas of land use,

(E) business regulation and zoning,

have resulted in difficult community relations and negative economic impacts affecting both the Tribe and non-Indian parties.

(3) Some of the significant historical events that led to the present circumstances include—

(A) the negotiation of the Treaty of Medicine Creek in December 1854, by the Puyallup Indians and others, by which the tribes ceded most of their territories but reserved certain lands and rights, including fishing rights;

(B) the Executive Order of 1857 creating the Puyallup Indian Reservation;

(C) the Executive Order of 1873, clarifying and extending the Puyallup Reservation in the Washington Territory;

(D) the March 11, 1891, Report of the Puyallup Indian Commission on allotments and the 1896 report by a second Puyallup Indian Commission describing the problems with sales of allotted lands; and

(E) the 1909 District Court for Tacoma decision of the United States of America against J.M. Ashton and the 1910

Supreme Court decision of United States of America against J.M. Ashton.

(4) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve certain problems and claims and to derive certain benefits.

(5) There is a recognition that any final resolution of pending disputes through a process of litigation would take many years and entail great expense to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the access, ownership, and jurisdictional status of issues in question; and seriously impair long-term economic planning and development for all parties.

(6) To advance the goals of Federal policy of Indian self-determination and to carry out the trust responsibility of the United States, and to advance the Federal policy of international trade and economic development, and in recognition of the Federal policy of settling these conflicts through comprehensive settlement agreements, it is appropriate that the United States participate in the funding and implementation of the Settlement Agreement.

(b) PURPOSE.—Therefore, it is the purpose of this Act—

(1) to approve, ratify, and confirm the agreement entered into by the non-Indian settlement parties and the Puyallup Tribe of Indians,

(2) to authorize and direct the Secretary to implement the terms of such agreement, and

(3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this Act.

25 USC 1773a.

SEC. 3. RESOLUTION OF PUYALLUP TRIBAL LAND CLAIMS.

(a) RELINQUISHMENT.—In accordance with the Settlement Agreement and in return for the land and other benefits derived from the Settlement Agreement and this Act, the Tribe, and the United States as trustee for the Tribe and its members, relinquish all claims to tidelands, submerged lands, and any other lands, and including any mineral claims and nonfisheries water rights connected with such relinquished land, known or unknown, within the State of Washington, subject to the exceptions referred to in subsection (b).

(b) EXCEPTION FOR CERTAIN LANDS.—Subsection (a) shall not apply to the following:

(1) 12.5 acres of former riverbed land confirmed to the Tribe in Puyallup Tribe of Indians against Port of Tacoma (717 F. 2d 1251 (1983)), which land shall be subject to the terms and conditions described in the Settlement Agreement and document 6 of the Technical Documents.

(2) All land to which record title in the Tribe or the United States in trust for the Tribe or its members derives from a patent issued by the United States or from a conveyance of tideland by the State of Washington. For the purposes of this paragraph, the term "record title" means title documented by identifiable conveyances reflected in those records imparting constructive notice of conveyances according to the laws of the State (RCW chapters 65.04 and 65.08) and the final judgments of State or Federal courts.

(3) Certain land recognized to be owned on August 27, 1988, by the Tribe or the United States in trust for the Tribe within the

Indian Addition to the city of Tacoma, Washington, as recorded in book 7 of plats at pages 30 and 31, records of Pierce County, Washington, as follows:

(A) Land owned on August 27, 1988:

(i) Portions of tracts 2, 5, 6, 10, and 11.

(ii) Tract 7 (school site).

(iii) Tract 8 (church site).

(iv) Tract 9 (cemetery site).

(v) Approximately 38 lots in blocks 8150, 8249, 8350, and 8442, inclusive.

(B) Land, wherever located, added to the above list of parcels on or before December 1, 1988, in accordance with paragraph A.3. of section IX of the Settlement Agreement.

(4) The lands transferred to the Tribe pursuant to the Settlement Agreement.

(5) The rights to underlying lands or the reversionary interest of the Tribe, if any, in the Union Pacific or Burlington Northern rights-of-way across the 1873 Survey Area, where the property over which they were granted belonged, at the time of the grant, to the United States in trust for the Tribe or to the Tribe.

(6) The submerged lands as of August 27, 1988, in the Puyallup River within the 1873 Survey Area below the mean high water line.

(c) PERSONAL CLAIMS.—Nothing in this section or in the Settlement Agreement shall be construed to impair, eliminate, or in any way affect the title of any individual Indian to land held by such individual in fee or in trust, nor shall it affect the personal claim of any individual Indian as to claims regarding past sales of allotted lands or any claim which is pursued under any law of general applicability that protects non-Indians as well as Indians.

SEC. 4. SETTLEMENT LANDS.

25 USC 1773b.

(a) ACCEPTANCE BY SECRETARY.—The Secretary shall accept the conveyance of the lands described in subsection (c), and the Outer Hylebos tidelands property referred to in section VIII, A,1,c of the Settlement Agreement, subject to the terms and conditions of the Settlement Agreement and shall hold such lands in trust for the benefit of the Tribe.

(b) CONTAMINATION.—(1) Contamination audits and cleanup of settlement lands shall be carried out in accordance with the Settlement Agreement and document 1 of the Technical Documents.

(2) The Tribe shall not be liable for the cleanup costs or in any other manner for contamination on properties described in subsection (c) except any contamination caused by the Tribe's activities after conveyance of these properties to the Tribe under the terms of the Settlement Agreement and document 1 of the Technical Documents.

(c) LANDS DESCRIBED.—The lands referred to in subsection (a), and more particularly described in the Settlement Agreement, are as follows:

(1) The Blair Waterway property, comprised of approximately 43.4 acres.

(2) The Blair Backup property, comprised of approximately 85.2 acres.

(3) The Inner Hylebos property, comprised of approximately 72.9 acres.

(4) The Upper Hylebos property, comprised of approximately 5.9 acres.

(5) The Union Pacific property (Fife), comprised of a parcel of approximately 57 acres, and an adjoining 22-acre parcel if the option relating to the Union Pacific property (Fife) (as described in document 1 of the Technical Documents) is exercised.

(6) The Torre property (Fife), comprised of approximately 27.4 acres, unless the Port elects to provide the cash value of such property.

(7) The Taylor Way and East-West Road properties, two properties totaling approximately 7.4 acres.

(8) The submerged lands in the Puyallup River within the 1873 Survey Area below the mean high water line, as provided in section I. B. of the Settlement Agreement. To the extent that the United States has title to any of the lands described in this subpart, then such lands shall be held by the United States in trust for the use and benefit of the Puyallup Tribe.

(9) The approximately 600 acres of open space, forest, and cultural lands to be acquired by the Tribe with cash received pursuant to section I of the Settlement Agreement or other tribal funds.

(d) RESERVATION STATUS.—Nothing in this Act is intended to affect the boundaries of the Puyallup Reservation, except that the lands described in subsection (c) above in paragraphs (1) through (8), and the Outer Hylebos tidelands property referred to in section VIII of the Settlement Agreement, shall have on-reservation status.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 for the Federal share for the purchase of the lands referred to in subsection (c)(9).

25 USC 1773c.

SEC. 5. FUTURE TRUST LANDS.

In accepting lands in trust (other than those described in section 4) for the Puyallup Tribe or its members, the Secretary shall exercise the authority provided him in section 5 of the Act of June 18, 1934 (25 U.S.C. 465), and shall apply the standards set forth in part 151 of title 25, Code of Federal Regulations, as those standards now exist or as they may be amended in the future.

25 USC 1773d.

SEC. 6. FUNDS TO MEMBERS OF PUYALLUP TRIBE.

(a) PAYMENT TO INDIVIDUAL MEMBERS.—(1) To the extent provided in advance in appropriation Acts or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall place with a financial institution the amount of $24,000,000 in an annuity fund or other investment program (hereafter in this subsection referred to as the "fund"). The selection of the institution or institutions where the funds will be held and the administration of the funds shall be in accordance with section II of the Settlement Agreement and documents 2 and 3 of the Technical Documents. Amounts earned pursuant to any investment of the fund shall be added to, and become part of, the fund.

(2) Upon attaining the age of 21 years, each enrolled member of the Tribe (determined by the Tribe pursuant to its constitution to have been a member as of the date of ratification of the Settlement Agreement by the Tribe) shall receive a one-time payment from the fund. The amount of such payment shall be determined in accordance with section II of the Settlement Agreement and document 2 of the Technical Documents.

(3) A reasonable and customary fee for the administration of the fund may be paid out of the income earned by the fund to the financial institution with which the fund is established.

(4) Upon payment to all eligible members of the Tribe pursuant to paragraph (2), any amount remaining in the fund shall be utilized in the manner determined by a vote of the members of the Tribe.

(5) There is authorized to be appropriated $22,350,000 for the Federal share of the fund. Appropriation authorization.

(b) PERMANENT TRUST FUND FOR TRIBAL MEMBERS.—(1) In order to provide a permanent resource to enhance the ability of the Tribe to provide services to its members, there is established the Puyallup Tribe of Indians Settlement Trust Fund (hereafter in this subsection referred to as the "trust fund").

(2) Upon appropriation by Congress or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall deposit $22,000,000 into the trust fund. The trust fund shall be invested in accordance with the Act of June 24, 1938 (25 U.S.C. 162a), so as to earn the maximum interest on principal and interest available under that Act. No part of the $22,000,000 principal may be expended for any purpose. Income earned on the principal or interest of the trust fund shall be available for expenditure as provided in paragraph (3).

(3)(A) The trust fund shall be administered and the funds shall be expended in accordance with section III of the Settlement Agreement and document 3 of the Technical Documents. Income from the trust fund may be used only for the following purposes unless modified in accordance with subparagraph (B):

(i) Housing.
(ii) Elderly needs.
(iii) Burial and cemetery maintenance.
(iv) Education and cultural preservation.
(v) Supplemental health care.
(vi) Day care.
(vii) Other social services.

(B) The purposes of the trust fund may be modified only as provided in document 3 of the Technical Documents.

(4) The fund established under this subsection shall be in perpetuity and inviolate.

(5) There is authorized to be appropriated $18,800,000 for the Federal share of the trust fund. Appropriation authorization.

SEC. 7. FISHERIES. Appropriation authorization. 25 USC 1773e.

In order to carry out the Federal part of the fisheries aspect of the Settlement Agreement, there is authorized to be appropriated $100,000 for navigation equipment at Commencement Bay to be used in accordance with section A of document 4 of the Technical Documents.

SEC. 8. ECONOMIC DEVELOPMENT AND LAND ACQUISITION. 25 USC 1773f.

(a) ECONOMIC DEVELOPMENT AND LAND ACQUISITION FUND.—To the extent provided in advance in appropriation Acts, the Secretary shall disburse $10,000,000 to the Tribe of which—

(1) $9,500,000 shall be available for the Tribe to carry out economic development consistent with section VI of the Settlement Agreement or to acquire lands; and

(2) $500,000 shall be available only to support and assist the development of business enterprises by members of the Tribe in a manner consistent with the Settlement Agreement.

Appropriation authorization.

There is authorized to be appropriated $10,000,000 to carry out this subsection.

(b) FOREIGN TRADE.—The Congress recognizes the right of the Tribe to engage in foreign trade consistent with Federal law and notwithstanding article XII of the treaty with the Nisqually and other bands of Indians entered into on December 26, 1854, and accepted, ratified, and confirmed on March 3, 1855 (11 Stat. 1132).

Appropriation authorization.

(c) BLAIR PROJECT.—There is authorized to be appropriated to the Secretary the amount of $25,500,000 for the Federal share of the costs associated with the Blair project, which shall be carried out in accordance with document 6 of the Technical Documents. For the purpose of this subsection, the Secretary shall transfer such amount to the Department of Transportation of the State of Washington. Such amount may only be used by the Department of Transportation of the State of Washington to carry out the Blair project in accordance with document 6 of the Technical Documents. Operation and maintenance of the Blair Waterway channel shall remain the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

25 USC 1773g.

SEC. 9. JURISDICTION.

The Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law.

25 USC 1773h.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—(1) None of the funds, assets, or income from the trust fund established in section 6(b) which are received by the Tribe under the Settlement Agreement shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure.

(2) The annuity fund, or other investment program, established in section 6(a) shall not be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure. Payments from the fund shall be in accordance with the Act of August 2, 1983 (25 U.S.C. 117a et seq.; commonly referred to as the "Per Capita Act").

(b) ELIGIBILITY FOR FEDERAL PROGRAMS; TRUST RESPONSIBILITY.—Nothing in this Act or the Settlement Agreement shall affect the eligibility of the Tribe or any of its members for any Federal program or the trust responsibility of the United States and its agencies to the Tribe and members of the Tribe.

(c) PERMANENT TRUST FUND NOT COUNTED FOR CERTAIN PURPOSES.—None of the funds, assets, or income from the trust fund established in section 6(b) shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State, or local program.

(d) TAX TREATMENT OF FUNDS AND ASSETS.—None of the funds or assets transferred to the Tribe or its members by the Settlement Agreement of this Act, and none of the interest earned or income received on amounts in the funds established under section 6 (a) and (b), shall be deemed to be taxable, nor shall such transfers be taxable events.

SEC. 11. ACTIONS BY THE SECRETARY.

25 USC 1773i.

The Secretary in administering this Act shall be aware of the trust responsibility of the United States to the Tribe and shall take such actions as may be necessary or appropriate to carry out this Act and the Settlement Agreement.

SEC. 12. DEFINITIONS.

25 USC 1773j.

For the purposes of this Act—

(1) the term "1873 Survey Area" means the area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation, conducted by the United States General Land Office, and filed in 1874;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Settlement Agreement" means the document entitled "Agreement between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners", dated August 27, 1988;

(4) the term "State" means the State of Washington;

(5) the term "Technical Documents" means the 7 documents which comprise the technical appendix to the Settlement Agreement and are dated August 27, 1988;

(6) the term "Tribe" means the Puyallup Tribe of Indians, a tribe of Indians recognized by the United States;

(7) the term "below the mean high water line" in reference to the submerged lands of the Puyallup Riverbed means "below the ordinary high water mark" in that portion of the river not subject to tidal influence and "below the mean high water line" in that portion of the river which is subject to tidal influence; and

(8) the term "on-reservation status" means a status under which Federal laws and regulations, treaty rights, and rights of sovereignty, which define the rights and responsibilities on trust or restricted lands (including rights-of-way and easements running through such lands within a Federal Indian reservation) apply: *Provided*, That such application is not inconsistent with any provision of the Settlement Agreement.

25 USC 1773a note.

SEC. 13. EFFECTIVE DATE.

Sections 3 and 9 shall take effect on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement.

Approved June 21, 1989.

LEGISLATIVE HISTORY—H.R. 932:

HOUSE REPORTS: No. 101-57 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 23, considered and passed House.
May 31, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
June 21, Presidential statement.

Public Law 101-42
101st Congress

An Act

To provide for restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes.

June 28, 1989
[H.R. 881]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coquille Restoration Act.
25 USC 715 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coquille Restoration Act".

SEC. 2. DEFINITIONS.

25 USC 715.

For the purposes of this Act—

(1) "Tribe" means the Coquille Indian Tribe consisting of the Upper Coquille and the Lower Coquille Tribes of Indians;

(2) "Secretary" means the Secretary of the Interior or his designated representative;

(3) "Interim Council" means the governing body of the Coquille Tribe which serves pursuant to section 8 of this Act;

(4) "Member" means those persons eligible for enrollment under section 7 of this Act and after the adoption of a tribal constitution, those persons added to the roll pursuant to such constitution;

(5) "service area" means the area composed of Coos, Curry, Douglas, Jackson, and Lane Counties in the State of Oregon;

(6) "State" means the State of Oregon; and

(7) "Reservation" means those lands subsequently acquired and held in trust by the Secretary for the benefit of the Tribe.

SEC. 3. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

25 USC 715a.

(a) FEDERAL RECOGNITION.—Notwithstanding any provision of law, Federal recognition is hereby extended to the Coquille Indian Tribe. Except as otherwise provided herein, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this Act shall be applicable to the Tribe and its Members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d) of this section, all rights and privileges of this Tribe and of its Members under any Federal treaty, Executive order, agreement or statute or under any other authority, which were diminished or lost under the Act of August 13, 1954 (68 Stat. 724), are hereby restored and provisions of said Act shall be inapplicable to the Tribe and its Members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its Members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recog-

nized tribes residing on a reservation, Members of the Tribe in the Tribe's service area shall be deemed to be residing on a reservation. Notwithstanding any other provision of law, the Tribe shall be considered an Indian tribe for the purpose of the Indian Tribal Government Tax Status Act (26 U.S.C. 7871).

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this Act shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its Members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (48 Stat. 984), as amended, shall be applicable to the Tribe and its Members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

25 USC 715b.

SEC. 4. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for this Tribe,

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 9, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

Real property.

(b) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 5 of this Act.

25 USC 715c.

SEC. 5. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Coos and Curry Counties not to exceed one thousand acres for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary: *Provided,* That, at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to his authority under the Act of June 18, 1934 (48 Stat. 984).

(b) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Tribe and shall be part of its reservation.

(c) LANDS TO BE NONTAXABLE.—Any real property taken into trust for the benefit of the Tribe under this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

25 USC 715d.

SEC. 6. CRIMINAL AND CIVIL JURISDICTION.

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, respectively. Retrocession of such jurisdiction may be obtained pursuant to section 403 of the Act of April 11, 1968 (82 Stat. 77).

SEC. 7. MEMBERSHIP ROLLS.

25 USC 715e.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within one year of the enactment of this Act, the Secretary shall compile a roll of the Coquille Indian Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted, a person shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized tribe, is of Coquille ancestry, possesses at least one-eighth or more of Indian blood quantum and if—

(A) that individual's name was listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960;

(B) that individual was not listed on but met the requirements that had to be met to be listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960; or

(C) that individual is a lineal descendant of an individual, living or dead, identified by subparagraph (A) or (B).

(2) After adoption of a tribal constitution, said constitution shall govern membership in the Tribe: *Provided,* That in addition to meeting any other criteria imposed in such tribal constitution, any person added to the roll has to be of Coquille Indian ancestry and cannot be a member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF COQUILLE ANCESTRY AND DEGREE OF INDIAN BLOOD QUANTUM.—For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Coquille ancestry and the required amount of Indian blood quantum. However, the Secretary shall accept as conclusive evidence of Coquille ancestry information contained in the Coquille roll compiled by the Bureau of Indian Affairs on August 29, 1960, and as conclusive evidence of Indian blood quantum the information contained in the January 1, 1940, census roll of nonreservation Indians of the Grand Ronde-Siletz Agency.

SEC. 8. INTERIM GOVERNMENT.

25 USC 715f.

Until a new tribal constitution and bylaws are adopted and become effective under section 9 of this Act, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Coquille Tribe on the date of enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal bylaws adopted on April 23, 1979. Any new members filling vacancies on the Interim Council must meet the criteria for enrollment in section 7(b) of this Act and be elected in the same manner as are Tribal Council members under the April 23, 1979, bylaws.

SEC. 9. TRIBAL CONSTITUTION.

25 USC 715g.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution for the Tribe. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than one hundred and twenty days after the Tribe adopts a constitution and bylaws, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the tribal constitution. Said election shall be conducted according to the procedures stated in paragraph (a) of this section except to the extent that said procedures conflict with the tribal constitution.

Approved June 28, 1989.

LEGISLATIVE HISTORY—H.R. 881:

HOUSE REPORTS: No. 101-61 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-50 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 23, considered and passed House.
June 14, considered and passed Senate.

Public Law 101-43
101st Congress

Joint Resolution

Designating June 23, 1989, as "United States Coast Guard Auxiliary Day".

June 28, 1989
[H.J. Res. 111]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 23, 1989, is designated as "United States Coast Guard Auxiliary Day", and the President is authorized and requested to issue a proclamation—

(1) commemorating the 50 years of service that service volunteers of the Coast Guard have given to enhance the safety of the people of the United States who enjoy water-related activities, and

(2) calling upon the people of the United States to observe such day in schools, Coast Guard units, boat clubs, and other suitable places with appropriate ceremonies, educational activities, and boating safety achievement programs.

Approved June 28, 1989.

LEGISLATIVE HISTORY—H.J. Res. 111 (S.J. Res. 155):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed House and Senate. S.J. Res. 155 considered and passed Senate.

Public Law 101-44
101st Congress

An Act

June 30, 1989
[H.R. 2344]

To authorize the transfer to the Republic of the Philippines of two excess naval vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO TRANSFER CERTAIN EXCESS NAVAL VESSELS TO THE PHILIPPINES.

(a) AUTHORITY TO TRANSFER WITHOUT CHARGE.—The Secretary of the Navy is authorized to transfer to the Republic of the Philippines without charge a floating drydock, the ex-AFDL-40, and a medium yard tug, the ex-YTM-776.

(b) APPLICABLE LAW.—Any transfer of a vessel under subsection (a) shall be in accordance with chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following), except that section 632(d) of that Act (22 U.S.C. 2392(d)) shall not apply with respect to that transfer.

(c) TERMS OF TRANSFER.—Any transfer of a vessel under subsection (a) shall be subject to such terms and conditions as the President may require.

(d) EXPENSES.—Any costs incurred in the transfer of a vessel under subsection (a) shall be at the expense of the Republic of the Philippines.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

Approved June 30, 1989.

LEGISLATIVE HISTORY—H.R. 2344:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 23, considered and passed House.
June 15, considered and passed Senate.

Public Law 101-45
101st Congress

An Act

Making supplemental appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 1989, and for other purposes.

June 30, 1989
[H.R. 2402]

Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 1989, and for other purposes, namely:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $701,481,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $22,212,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

For an additional amount for "Loan Guaranty Revolving Fund", $120,100,000, to remain available until expended.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", $340,125,000: *Provided,* That of the sums appropriated under this heading in fiscal year 1989, not less than $6,800,000,000 shall be available only for expenses in the personnel compensation and benefits object classifications.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "General operating expenses", $24,900,000, of which $15,000,000 shall be derived by transfer from "Construction, minor projects": *Provided,* That in the appropriation language under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989, insert a period after "$774,316,000" and delete the language that follows.

TITLE I—DIRE EMERGENCY SUPPLEMENTALS AND TRANSFERS

CHAPTER I

EMERGENCY DRUG FUNDING

DEPARTMENT OF JUSTICE

To strengthen Federal domestic drug law enforcement at the local level for additional assistant United States attorneys, deputy United States marshals and other agents, including necessary equipment and supplies; initiate plans to acquire available military facilities for use as prisons or Civilian Conservation Corps type use for drug offenders; speed up planning for not less than three prisons in areas where most needed; and to expedite the purchase of automatic data processing equipment to improve the exchange of information, $71,000,000, notwithstanding any designations contained in titles I through IX of Public Law 100-690: *Provided,* That not later than thirty days after each month the Attorney General shall report to the Committees on Appropriations of the Senate and House of Representatives on the monthly obligation of these funds.

Reports.

THE JUDICIARY

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners" to strengthen drug law enforcement at the local level, $4,000,000.

CHAPTER II

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance" for the Public Safety Officers' Benefits Program, $4,000,000 to remain available until expended.

THE JUDICIARY

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For payment to the Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, $2,300,000.

CHAPTER III

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

(TRANSFER OF FUNDS)

For additional amounts for appropriations for the fiscal year 1989, for increased pay costs authorized by or pursuant to law as follows:

"General regulatory functions", $1,100,000, to be derived by transfer from "Operation and maintenance, general".

"General expenses", $2,600,000, to be derived by transfer from "Construction, general".

GENERAL REGULATORY FUNCTIONS

(TRANSFER OF FUNDS)

For an additional amount for "General regulatory functions", $2,225,000, to remain available until expended, to be derived by transfer from "Construction, general".

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For an additional amount for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $55,000,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,429,000,000 in fiscal year 1989, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $0.

GENERAL PROVISIONS

SEC. 301. Sunset Harbor, California: Section 1119(a) of the Water Resources Development Act of 1986 is amended by adding at the end

California.
100 Stat. 4238.

thereof the following: "The total cost referred to in the preceding sentence may be increased by the Secretary by any amount contributed by non-Federal interests which is in excess of amounts contributed by non-Federal interests under the preceding sentence.".

Iowa.

SEC. 302. Saylorville Lake, Iowa: From Construction, General funds heretofore or hereafter appropriated, the Secretary of the Army is directed to construct Highway 415, Segment "C" at the Saylorville Lake, Iowa, Project in accordance with terms of the Relocations Contract executed on June 21, 1984, between the Rock Island District Engineer and the State of Iowa.

Ohio.
Conservation.

SEC. 303. Sims Park, Ohio: The Secretary of the Army, acting through the Chief of Engineers, shall undertake a beach erosion control project at Sims Park, Euclid, Ohio, using funds appropriated under the heading "CONSTRUCTION GENERAL" in title I of the Energy and Water Development Appropriation, 1988 (Public Law 100-202; 101 Stat. 107).

Oregon.
Washington.

SEC. 304. The undesignated paragraph under the heading "Bonneville Lock and Dam, Oregon and Washington—Columbia River and Tributaries Washington" in section 301(a) of Public Law 99-662 (100 Stat. 4110) is amended by striking out "$191,000,000" in two places and inserting in lieu thereof "$328,000,000".

Ohio.
Water.

SEC. 305. From existing funds appropriated pursuant to Public Law 100-371, an Act making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake preliminary engineering and design for a project at West Fork of Mill Creek Lake, Ohio, pursuant to section 1135 of Public Law 99-662, as amended.

CHAPTER IV

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ECONOMIC SUPPORT FUND

Of the funds appropriated in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, up to $200,000 of the unearmarked funds appropriated under the heading "Economic Support Fund" may be made available for the support of the process of democratic transition in Poland, which may include, among other things, civic education programs, including independent media and publishing activities: *Provided,* That funds made available under this paragraph may be used without regard to any provision of law which would otherwise prohibit the use of foreign assistance funds with respect to Poland: *Provided further,* That there shall be available an additional amount for the "Economic Support Fund", $3,000,000, which shall be made available notwithstanding any other provision of law for the promotion of democracy in Nicaragua: *Provided further,* That of the funds made available under this heading for the promotion of democracy in Nicaragua, $1,500,000 shall be made available as a contribution to the Organization of American States to carry out election monitoring activities in Nicaragua: *Provided further,* That the amount provided for promotion of democracy in Nicaragua under this heading shall be derived from funds appropriated under such heading in the Foreign

Operations, Export Financing, and Related Programs Appropriations Act, 1987, or from funds earmarked under such heading in Public Law 100-202 for reconstruction and rehabilitation of the National University of El Salvador and other institutions of higher education in El Salvador: *Provided further,* That such funds shall be in addition to funds made available for the promotion of democracy in Nicaragua by Public Law 100-461.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", $100,000,000, to support emergency refugee admissions and assistance: *Provided,* That this amount may be derived through new budget authority, or the President may transfer to such account for purposes of this paragraph any unobligated and unearmarked funds made available under Public Law 100-461, notwithstanding section 514 as amended by section 589 of Public Law 100-461: *Provided further,* That if the President transfers funds for this paragraph not more than 3.3 per centum of the unobligated and unearmarked funds available under any account in Public Law 100-461 may be transferred: *Provided further,* That any transfer of funds pursuant to this paragraph shall be subject to the regular reprogramming procedures of the Committees on Appropriations: *Provided further,* That not less than $85,000,000 of such amount shall be made available for Soviet and other Eastern European Refugee admissions and for admissions restored to other regions: *Provided further,* That funds provided under this paragraph are available until expended.

GENERAL PROVISIONS

SEC. 401. The Congress finds that failing to recognize natural resource depletion causes current systems of economic statistics to provide a distorted representation of many nations' economic condition.

(a) The Secretary of State shall instruct the United States representative to the Organization for Economic Cooperation and Development and to the United Nations and its appropriate affiliated organizations to seek revisions in the manner in which these organizations report the income and economic activities of nations. Such a system of accounting shall recognize the depletion or degradation of natural resources as a component of economic activities. International organizations.

(b) The Secretary of the Treasury shall instruct the United States Executive Director to each Multilateral Development Bank and to the International Monetary Fund to seek the adoption of revisions in accounting systems as described in subsection (a).

(c) The Administrator of the Agency for International Development shall incorporate the changes described in subsection (A) into AID's evaluations and projections of the economic performance of recipient countries.

HAITI

Section 563(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as contained in Public Law 100-461 is amended by adding two new subsections as follows: 102 Stat. 2268-40.

"(11) assistance consisting of sales and donations of agricultural commodities under Public Law 480, in an amount not to exceed $12,000,000;

"(12) animal and plant health programs, where the assistance is primarily for the benefit of the United States.".

CHAPTER V

DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE

For an additional amount for emergency rehabilitation, forest firefighting, fire severity presuppression, and other emergency costs on National Forest System lands and Department of Interior lands, $341,669,000 of which (1) $30,180,000 is for "Bureau of Land Management, Management of lands and resources"; (2) $2,895,000 is for "United States Fish and Wildlife Service, Resource management"; (3) $25,000,000 is for "National Park Service, Operation of the National Park System"; (4) $33,594,000 is for "Bureau of Indian Affairs, Operation of Indian Programs"; and (5) $250,000,000 is for "Forest Service, National Forest System": *Provided,* That such funds are to be available for repayment of advances to other appropriation accounts from which funds were transferred in fiscal year 1987 and fiscal year 1988 for such purposes.

DEPARTMENT OF THE INTERIOR

Oil Spill Emergency Fund

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment activities related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, $7,300,000, to be available until September 30, 1990: *Provided,* That for purposes of obligation and expenditure, these funds shall be transferred, upon approval of the Secretary, to existing appropriations of the Department of the Interior: *Provided further,* That any reimbursements from the Pollution Fund of the Coast Guard or other sources for activities for which funds were transferred from this account are to be credited back to this account: *Provided further,* That notwithstanding any other provision of law, in fiscal year 1989 and thereafter, sums provided by any party, including sums provided in advance as (1) reimbursement for contingency planning, response or damage assessment activities conducted or to be conducted by any agency funded in the Department of the Interior and Related Agencies Appropriations Act as a result of any discharge of oil into the environment or (2) damages for injuries resulting from such a discharge to resources for which an agency funded in the Department of the Interior and Related Agencies Appropriations Act is a trustee, may be credited to the relevant appropriation for that agency then current and shall be available until expended: *Provided further,* That section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1989, is amended as follows: after the term "volcanoes" insert "; for contingency planning subsequent to actual oilspills, response and natural resource damage assessment activities related to actual oilspills".

102 Stat. 1799.

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

(TRANSFER OF FUNDS)

Monies received from government operations and sale of the Great Plains Gasification Plant, including accrued interest, which currently are deposited in the liquidating trust at the First Trust of North Dakota shall be deposited in this account, and $12,000,000 determined by the Secretary of Energy to be excess to the needs of ongoing alternative fuels programs shall be transferred to the General Fund of the Treasury prior to October 1, 1989.

CLEAN COAL TECHNOLOGY

Notwithstanding any other provision of law, funds originally appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1989, shall be available for a third solicitation of clean coal technology demonstration projects, which projects are to be selected by the Department not later than January 1, 1990.

GENERAL PROVISIONS

SEC. 501. No funds appropriated or made available heretofore or hereafter under this or any other Act may be used by the executive branch to contract with organizations outside the Department of Energy to perform studies of the potential transfer out of Federal ownership, management or control by sale, lease, or other disposition, in whole or in part, the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: *Provided*, That the negotiation of changes to the unit plan contract with Chevron which governs operation of Elk Hills, where the purpose of the changes is to prepare for the divestiture of the Reserve, is prohibited. 10 USC 7431 note.

SEC. 502. Notwithstanding any other provision of law, the Secretary of the Treasury is directed to provide the Secretary of Agriculture, to remain available until expended, total timber receipts in fiscal year 1988 in excess of $791,000,000 as required in Public Law 100-446, without reductions for payments made in accordance with the provision of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided*, That additional receipts made available by this section shall be distributed by the Secretary of Agriculture in the same manner as provided in Public Law 100-446. Forests and forest products.

SEC. 503. The Department of the Interior and Related Agencies Appropriations Act, fiscal year 1989 (Public Law 100-446), is amended under the heading "Miscellaneous Payments to Indians" by inserting "100-383," after "98-500,". 102 Stat. 1796.

SEC. 504. Of the funds appropriated in Public Law 100-446 under the heading "Forest Service, National Forest System", $400,000 shall be transferred to the appropriation account "Forest Service, Forest Research".

CHAPTER VI

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

TRADE ADJUSTMENT ASSISTANCE

For an additional amount for "Federal Unemployment Benefits and Allowances", $90,648,000, of which $56,000,000 shall be for activities as provided by part 1, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, and $34,648,000 shall be for activities, including necessary related administrative expenses, as authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Funds made available under the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1989 (Public Law 100-436), that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for the Occupational Safety and Health Administration, $3,200,000, which shall be available for a grant to the State of California under section 23(g) of the Occupational Safety and Health Act.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $1,445,000, to be derived by a transfer of such sum from the amounts available for Departmental Management administrative expenses in the fiscal year 1989 Black Lung Disability Trust Fund appropriation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For activities authorized under section 799A(e) of the Public Health Service Act, $800,000.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Funds appropriated by the Department of Health and Human Services Appropriations Act, 1989, to implement section 4005(e) of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, may not be used to provide forward or multiyear funding.

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The last proviso under this heading in Public Law 100-436, related to automatic data processing and telecommunications expenditures, is deleted. 102 Stat. 1695.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For an additional amount for "Payments to States for Foster Care and Adoption Assistance", $423,345,000 for title IV-E of the Social Security Act, which shall be available for prior years' claims.

DEPARTMENT OF EDUCATION

IMPACT AID

Section 5(e)(1)(D) of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1987 but is an agency described in section 5(c)(2)(A)(iii) of the Act in fiscal year 1989 as a result of families being moved off-base in order to renovate base housing: *Provided*, That any school district which received a payment under section 5(b)(2) of the Act for fiscal year 1986 but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property shall be deemed eligible for payments under section 2, for fiscal year 1989 only.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Appropriations under the heading "Rehabilitation Services and Handicapped Research" shall be considered as funds mandated by law for purposes of applying section 517 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989.

GUARANTEED STUDENT LOANS

For payment of obligations under this heading incurred during fiscal year 1989, $892,428,000.

HIGHER EDUCATION

For an additional amount for "Higher Education" which shall be available for such project as the Secretary may deem appropriate which is authorized under existing law, $1,600,000.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

(RESCISSION)

Of funds provided under this head for necessary expenses of the National Student Loan Data System, $5,533,000 are rescinded.

OFFICE FOR CIVIL RIGHTS

For an additional amount for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $790,000.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $440,000.

RELATED AGENCIES

RAILROAD RETIREMENT BOARD

LIMITATION ON REVIEW ACTIVITY

For an additional amount for "Limitation on Review Activity", $150,000.

PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For the Prescription Drug Payment Review Commission, as authorized by section 1847 of title XVIII of the Social Security Act, $250,000, to be derived by transfer of $125,000 from the Physician Payment Review Commission and $125,000 from the Prospective Payment Assessment Commission, to remain available until expended.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100-382, $1,750,000.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Carolyn F. Nichols, widow of Bill Nichols, late a Representative from the State of Alabama, $89,500.

LIBRARY OF CONGRESS

Effective June 15, 1989, the Library of Congress shall provide financial management services and support to the United States Capitol Preservation Commission as may be required and mutually agreed to by the Librarian of Congress and the Cochairmen of the United States Capitol Preservation Commission. 2 USC 142i.

CHAPTER VIII

DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed an additional $2,500,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for necessary administrative expenses of the Agricultural Stabilization and Conservation Service incurred in carrying out fiscal year 1989 workload in connection with 1988 disaster assistance activities only, not to exceed $40,000,000, to be derived by transfer from the Commodity Credit Corporation: *Provided*, That of this amount, $275,000 shall be transferred to the Cooperative State Research Service to be paid to the Kansas Agricultural Research Experiment Station at Kansas State University for the purposes of disseminating information to farmers on methods of alleviating drought problems and exploring improved water conservation techniques.

CONSERVATION RESERVE PROGRAM

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Conservation Reserve Program", delete the sum "$1,864,000,000" and insert in lieu thereof "$1,789,000,000", and delete the sum "$385,000,000" and insert in lieu thereof "$370,000,000". 102 Stat. 2253.

ADVANCED DEFICIENCY PAYMENTS

Notwithstanding any other provision of law, effective only for the 1988 crops of wheat, feed grains, upland cotton and rice, if the Secretary determines that any portion of the advanced deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refunds shall not be required prior to December 31, 1989, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988: *Provided,* That for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), this provision is a necessary (but secondary) result of a significant policy change.

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

OPERATING LOANS

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For an additional amount for insured operating loans, $32,500,000, to be derived by transfer from emergency disaster loans, to remain available until September 30, 1990: *Provided,* That the Secretary shall allocate immediately insured farm operating loans to States from the national reserve, from pooling of unobligated funds previously allocated to States, and from this appropriation, in a manner that will provide each State with an opportunity to fund at least the same level of obligations as in fiscal year 1988: *Provided further,* That in Public Law 100-460, 'An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of "$600,000,000" and insert in lieu thereof "$562,500,000". 102 Stat. 2244.

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of "$14,000,000" and insert in lieu thereof "$7,000,000", delete the first sum of "$3,000,000" and insert in lieu thereof "$1,500,000", and delete the sum of "$2,000,000" and insert in lieu thereof "$1,000,000".

RURAL HOUSING INSURANCE FUND

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Rural Housing Insurance Fund" the first proviso of the second paragraph is hereby amended to read as follows: "*Provided,* That of this amount not less than $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949:". 102 Stat. 2243.

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount for insured water and sewer facility loans, $2,500,000, to remain available until expended.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for water and waste disposal grants, $7,500,000, to remain available until expended.

SOIL CONSERVATION SERVICE

REIMBURSEMENT TO THE SOIL CONSERVATION SERVICE FOR CONSERVATION RESERVE PROGRAM ASSISTANCE

The Agricultural Stabilization and Conservation Service shall reimburse the Soil Conservation Service for services provided to carry out the Conservation Reserve Program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), at a rate of $3.00 per acre bid in the program: *Provided,* That reimbursement for this service is made retroactive to October 1, 1988.

WATERSHED AND FLOOD PREVENTION OPERATIONS

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Watershed and Flood Prevention Operations", delete the sum "$7,949,000" and insert in lieu thereof "$4,000,000". 102 Stat. 2250.

RESOURCE CONSERVATION AND DEVELOPMENT

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Resource Conservation and Development", delete the sum "$1,207,000" and insert in lieu thereof "$600,000". 102 Stat. 2250.

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for necessary expenses to carry out the Food Stamp Act, $224,624,000.

FOOD AND DRUG ADMINISTRATION

For an additional amount for orphan product grants and contracts, $500,000.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $6,600,000: *Provided,* That notwithstanding any other provision of 49 USC app. 1389 note.

law, after September 30, 1989, no subsidy shall be paid for any service to or from any essential air service point in the contiguous United States for which the per passenger subsidy exceeds $300.

STATE AND LOCAL ANTI-APARTHEID POLICIES

22 USC 5117.

Notwithstanding any other provision of this or any other law, none of the funds provided by this or any previous or subsequent Act to the Department of Transportation shall be withheld from State or local grantees for any reason related to the adoption by any such grantee of a policy prohibiting the procurement of products manufactured or fabricated in the Republic of South Africa.

COAST GUARD

OPERATING EXPENSES

Notwithstanding any other provision of law, in fiscal year 1989 and thereafter, sums provided by any party, including sums provided in advance, as reimbursements for operating expenses incurred by the United States Coast Guard in response to the oilspill from the "Exxon Valdez" grounding, shall be credited to the "Operating expenses" appropriation for the United States Coast Guard, and shall remain available until expended.

From funds made available under this head in Public Law 100-457, up to $5,600,000 shall be made available until expended for development, acquisition, installation, operation, and support, including personnel, or equipment to provide vessel traffic management information in the New York Harbor area: *Provided,* That the United States Coast Guard shall initiate action within sixty days of the date of enactment of this Act to establish such a system: *Provided further,* That, within sixty days of the date of enactment of this Act, the Secretary shall initiate a rulemaking to determine which class or classes of vessels operating in the New York Harbor area shall be required to participate in an active vessel traffic management system, and the specific operating procedures and requirements of such a mandatory system.

Notwithstanding any other provision of law, funds available under this head in both Public Law 100-457 and this Act shall be available for expenses incurred in fiscal year 1989 by the Coast Guard in responding to any oilspill.

FEDERAL AVIATION ADMINISTRATION

49 USC app. 1356 note.

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Not later than thirty days after the date of the enactment of this Act, the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act: *Provided,* That notwithstanding any other provision of law, the Federal Aviation Administration shall renego-

tiate the Logan County Airport grant agreements "5-54-0013-01-77" and "5-54-0013-02-78" to include funds sufficient to cover the additional project costs associated with project delay and inflation, so that the project can be completed as originally intended.

FEDERAL HIGHWAY ADMINISTRATION

Bridges.

The paragraph designated "Discretionary Bridge Program" under the heading "General Provisions" of chapter XI of title I of Public Law 100-71 (101 Stat. 436) is amended by adding at the end thereof the following: "Phase II of such project shall include, for purposes of funding under the discretionary bridge program, construction of the bridge from the end of phase one on City Island to the touchdown point of the bridge near Fourteenth Street. Application and determination of eligibility for additional funding on the project beyond present commitments shall occur without regard to the current schedule of bidding and construction, prior determinations of agreements by the United States Department of Transportation concerning the boundaries of phase II of the project.".

CHAPTER X

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INTERNATIONAL AFFAIRS

(TRANSFER OF FUNDS)

For an additional amount for "International affairs", not to exceed $1,623,000, to be derived by transfer from "Salaries and expenses".

CHAPTER XI

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for the purchase of prosthetic appliances for "Medical care", $5,000,000, to be derived by transfer from "Construction, major projects".

Notwithstanding any other provision of this Act, the proviso following "$340,125,000" under the head "Veterans Health Service and Research Administration, Medical Care" contained in the earlier part of this Act, shall have no force or effect.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Of the amounts heretofore provided for the section 8 moderate rehabilitation program, any amounts in excess of $47,000,000 that are recaptured during fiscal year 1989 shall not be subject to the requirements of the sixth proviso under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(TRANSFER OF FUNDS)

For an additional amount for "Payments for operation of low-income housing projects", $88,000,000, to remain available until September 30, 1990: *Provided*, That such amount shall be derived by transfer from "Annual contributions for assisted housing", and the amount specified for the section 8 moderate rehabilitation program in the first proviso under that head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014) shall be reduced by such amount: *Provided further*, That from the foregoing amount, $8,200,000 shall be made available, notwithstanding section 9(d) of the United States Housing Act of 1937, for grants for use in eliminating drug-related crime in public housing projects, consistent with the criteria set forth in section 5125(b), and reflected in other requirements of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690, 102 Stat. 4301).

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,490,000, to be derived by transfer from "Urban development action grants".

ADMINISTRATIVE PROVISION

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended—

New York.

(1) by inserting after "State of New York" the following: "or City of New York"; and

(2) in clause (1), by inserting "or municipal" after "State".

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the initial startup costs and operation of the Court of Veterans Appeals as authorized by sections 4051-4091 of title 38, United States Code, $3,100,000, to remain available

until September 30, 1990: *Provided*, That, notwithstanding section 4081 of title 38, United States Code, during fiscal year 1989 (1) the United States Court of Veterans Appeals may (A) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint not to exceed 35 employees (and employees to replace any employees so appointed whose employment by the Court is terminated) who shall be eligible for noncompetitive conversion to a position in the competitive service if (i) application therefor is made to the Office of Personnel Management by December 31, 1990, and (ii) the Director of the Office of Personnel Management determines that such noncompetitive conversion is in the interest of the Government, and (B) procure the services of experts and consultants under section 3109 of such title, (2) in the making of appointments pursuant to clause (1), preference among equally-qualified persons shall be given to persons who are preference eligibles (as defined in section 2108(3) of such title), and (3) the authorities provided in clause (1) may be exercised by the Chief Judge of the Court whenever there are not at least two Associate Judges on the Court.

38 USC 4081 note.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $6,000,000.

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $9,000,000, to remain available until September 30, 1990.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of available funds under this head, $15,000,000 are rescinded.

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", up to $5,000,000, which shall be derived by transfer from "Abatement, control, and compliance".

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER PROGRAM

(TRANSFER OF FUNDS)

For an additional amount for the "Emergency food and shelter program", $12,000,000, to be derived by transfer from "Urban development action grants".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", up to $35,000,000, to be derived by transfer from "Research and development" and "Space flight, control and data communications".

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991.

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991: *Provided*, That this amount shall not be available for obligation until October 1, 1989: *Provided further*, That this additional amount made available on October 1, 1989 is in addition to the amount made available upon enactment.

CHAPTER XII

DISTRICT OF COLUMBIA

INAUGURAL EXPENSES PAYMENT

(TRANSFER OF FUNDS)

For an additional amount for "Inaugural expenses payment", $1,000,000, to be derived from Expenses, Presidential Transition, General Services Administration.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $26,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 to 2269-2), $7,216,000 are rescinded for a net decrease of $7,190,000.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $1,990,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462;

102 Stat. 2269-2), $19,016,000 are rescinded for a net decrease of $17,026,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $29,360,000, of which $5,064,000, to remain available until expended, shall be solely for overtime expenses of the Metropolitan Police Department and $800,000, to remain available until expended, shall be solely for overtime expenses of the Superior Court: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-2 to 2269-4), $1,210,000 are rescinded for a net increase of $28,150,000.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,529,000, which shall be allocated as follows: $3,758,000 for the public schools of the District of Columbia and $771,000 for the District of Columbia School of Law: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $2,000,000 for the University of the District of Columbia, $6,000 for the Educational Institution Licensure Commission, $389,000 for the Public Library, and $185,000 for the Commission on the Arts and Humanities are rescinded for a net increase of $1,949,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,858,000: *Provided,* That $3,611,000 of this appropriation, to remain available until expended, shall be available solely for the District of Columbia's employees' disability compensation: *Provided further,* That of the funds provided for the Office of Emergency Shelter and Support Service, $750,000 shall be used to provide food for the homeless and may not be used for any other purpose: *Provided further,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $9,945,000 are rescinded for a net increase of $35,913,000.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $5,436,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $10,655,000, including $300,000 from the school transit subsidy are rescinded for a net decrease of $5,219,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center fund", $543,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-5), $5,834,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $13,950,000: *Provided,* That in addition, all net revenue that the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint communications et al. v. District of Columbia, et al., CA 10080-87 (court order filed on November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $4,592,000.

PERSONAL SERVICES ADJUSTMENTS

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), $18,553,000 as determined by the Mayor, are rescinded: *Provided,* That the Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14: *Provided further,* That during the fiscal year ending September 30, 1989, the Mayor shall reduce the number of authorized, full-time, funded positions above DS-10 by 318.

INAUGURAL EXPENSES

For an additional reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $1,000,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

ENERGY ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat.

2269–1 through 2269–6), an additional $349,000 as determined by the Mayor are rescinded from object class 30(a) energy.

EQUIPMENT ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100–462; 102 Stat. 2269–1 through 2269–6), $3,500,000 as determined by the Mayor are rescinded from object class 70 (equipment).

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $146,642,000, to remain available until expended: *Provided,* That of the amounts appropriated under this heading in prior fiscal years, $15,970,000 are rescinded for a net increase of $130,672,000: *Provided further,* That $14,700,000 shall be available solely for the Correctional Treatment Facility of which $8,700,000 shall be for delay claims owed to the contractor for construction delays and $6,000,000 shall be for fixtures and equipment connected to the floors, walls, and ceilings of the Facility by means of structural, mechanical, or electrical requirements: *Provided further,* That $4,185,000 shall be available for project management and $9,425,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That $25,000,000 shall be available to the Department of Corrections for a feasibility study, site acquisition, and design and construction of a jail that is generally bounded by G Street, N.W. on the north, 6th Street, N.W. on the west, Pennsylvania Avenue, N.W. on the south and 1st Street, N.W. on the east: *Provided further,* That the feasibility study shall include a companion analysis of a revised mission for the present jail to prevent duplication: *Provided further,* That the executive branch is prohibited from disposing of any property in the Judiciary Square area that is under the jurisdiction of the Mayor until a site has been chosen.

WATER AND SEWER ENTERPRISE FUND

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100–462; 102 Stat. 2269–7), $100,000 shall be available to compensate individuals as provided in the Water Main Break Fund Emergency Act of 1988, effective December 21, 1988 (D.C. Act 7–269; to be codified at D.C. Code, sec. 47–375, note).

ADMINISTRATIVE PROVISIONS

The United States hereby forgives $5,064,000 of the fourth quarter indebtedness incurred by the District of Columbia government to the United States pursuant to the Act of March 3, 1915, D.C. Code, sec. 24–424, as amended, this amount being equal to the increased cost of housing District of Columbia convicts in Federal penitentiaries during the fiscal year ending September 30, 1989: *Provided,*

That for the fiscal year ending September 30, 1990, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

Notwithstanding any other provision of law, including, but not limited to the District of Columbia Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144, as amended, 25 DCR 6939 (1979), the District of Columbia Government is directed to begin construction of a correctional facility to be located in the District of Columbia, as described in Public Law 99-591, within thirty days of enactment of this Act.

TITLE II—URGENT SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $28,400,000, to remain available until expended.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $1,800,000.

ASSETS FORFEITURE FUND

(RESCISSION)

Of the $75,000,000 in expenses authorized by 28 U.S.C. 524 and appropriated from receipts of the Assets Forfeiture Fund in 1989 (Public Law 100-459), $2,232,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

From the amounts made available to the National Institute of Justice in Public Law 100-459, there shall be available $200,000 for a grant to the University of South Carolina for the purpose of studying the causes and effects of the increasingly disproportionate use of illegal drugs in the black community: *Provided*, That of deobligated funds previously awarded from appropriations for "Justice assistance", $2,053,000 are rescinded, notwithstanding any other provision of law.

DEPARTMENT OF STATE

GENERAL PROVISION

(TRANSFER OF FUNDS)

SECTION. 1. In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities, and to reimburse funds originally appropriated for prior international peacekeeping activities, which have been reprogrammed for new international peacekeeping activities, the President may transfer during fiscal year 1989 such of the funds described in section 2(a) as the President deems necessary, but not to exceed $125,000,000 to the "CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES" account or the "PEACEKEEPING OPERATIONS" account administered by the Department of State, notwithstanding section 15(a) of the Department of State Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law.

SEC. 2. (a) IN GENERAL.—The funds that may be transferred under the authority of this heading for use in accordance with section 1 are—

(1) any funds available to the Department of Defense during fiscal year 1989, other than funds appropriated by the Department of Defense Appropriations Act, 1989 (Public Law 100-463); and

(2) any funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) for the "MILITARY ASSISTANCE" account, for the "INTERNATIONAL MILITARY EDUCATION AND TRAINING" account, or for grants under the "FOREIGN MILITARY FINANCING PROGRAM" account. Grants.

(b) RELATIONSHIP TO CERTAIN OTHER PROVISIONS.—Funds described in subsection (a)(2) may be transferred and used for contributions or other assistance for new international peacekeeping activities in accordance with section 1 of this provision notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

SEC. 3. (a) REVIEW OF PROPOSED TRANSFERS.—Any transfer of funds pursuant to section 1 shall be subject to the regular reprogramming procedures of the following committees:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Armed Services of each House of Congress if funds described in paragraph (1) of section 2(a) are to be transferred.

(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate if funds described in paragraph (2) of section 2(a) are to be transferred.

(b) REVIEW OF PROPOSED OBLIGATIONS.—The regular reprogramming procedures of the following committees shall apply with respect to the obligations of any funds transferred pursuant to section 1:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Cuba.
Angola.
South Africa.
Namibia.
International agreements.

SEC. 4. (a) Of the amount that may be transferred pursuant to section 1, $38,950,000 shall be made available upon enactment for contribution with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988 (hereafter known as the Tripartite Agreement) only if the President determines and certifies to the appropriate Congressional committees that (1) the armed forces of the South West Africa People's Organization (SWAPO) have left Namibia and returned north of the 16th parallel in Angola in compliance with the agreements, (2) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date, and (3) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

(b) An additional $38,950,000 of such amount shall be made available after August 15, 1989, for implementation of the Tripartite Agreement only if the President has determined and certified to the appropriate Congressional committees that (1) each of the signatories to the Tripartite Agreement is in compliance with its obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), specifically with respect to its obligations as of August 1, 1989, (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(c) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(d) The term "Bilateral Agreement" means the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988, and the term "Tripartite Agreement" means the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988.

(e) The term "appropriate Congressional committees" means the Committees on Appropriations, Foreign Affairs, and Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations, Foreign Relations, and the Select Committee on Intelligence of the Senate.

International organizations.
Loans.

SEC. 5. The Secretary of the Treasury shall instruct the United States Executive Directors to the International Monetary Fund and the International Bank for Reconstruction and Development to vote

in opposition to the entry of the Government of Angola into these financial institutions or to approve any loans to Angola unless the President certifies to the appropriate congressional committees that progress is being made toward national reconciliation.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For payment to the Secretary of the Treasury for debt reduction, $515,000,000, to remain available until expended.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for each of the following:

(1) the vessel LIBERTY, hull identification number BHA 5512 B and State of Hawaii registration number HA 5512 B;

(2) the vessel NAVATEK I;

(3) the vessel NANCY ANN, United States official number 901962; and

(4) the vessel NOR'WESTER, United States official number 913451.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

That the authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station be amended to authorize the Federal Communications Commission to expend the funds remaining from the sale of the Fort Lauderdale, Florida Monitoring Station, for salaries and expenses in fiscal year 1989 in lieu of returning the unused funds to the general fund of the United States Treasury.

LEGAL SERVICES CORPORATION

ADMINISTRATIVE PROVISION

Grants.
Contracts.

None of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation, or any other funds available to the Corporation, shall be used by the Corporation Board, members, staff, or consultants, to consider, develop, or implement any system for the competitive award of grants until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive awards of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: *Provided,*

That the Corporation shall insure that all grants or contracts made during calendar year 1989 to all grantees funded under sections 1006(a) (1) and (3) of the Legal Services Corporation Act with funds appropriated in Public Law 100-459, or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1989, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to Public Law 100-459, and shall not be subject to any amendments to regulations relating to fee generating cases (45 CFR Part 1609) or the use of private funds (45 CFR Parts 1610 and 1611) not in operational effect on October 1, 1988.

ADMINISTRATIVE PROVISIONS

SEC. 101. Funds appropriated to the Commission for the Study of International Migration and Cooperative Economic Development and the Commission on Agricultural Workers in Public Law 100-459 shall remain available until expended.

SEC. 102. The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of Public Law 100-459, may transfer unobligated balances available under Courts of Appeals, District Courts, and Other Judicial Services, "Defender Services", to any appropriation account of the Judiciary: *Provided*, That compensation and reimbursement of attorneys and others as authorized under section 3006A of title 18, United States Code, and section 1875(d) of title 28, United States Code, may hereinafter be paid from funds appropriated for "Defender Services" in the year in which payment is required.

18 USC 3006A note.

SEC. 103. Funds heretofore or hereafter appropriated or otherwise made available to the United States Information Agency for television broadcasting to Cuba may be used by the Agency to lease, maintain and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

Communications and telecommunications. Aircraft and air carriers.

SEC. 104. Section 631(b)(1) of title 28, United States Code, is amended by striking out all after "Puerto Rico, or the Virgin Islands of the United States," through "the bar of the district court of the Virgin Islands;" at the end of subparagraph (B), and by striking out the words "the first sentence of" that appear in the same paragraph.

SEC. 105. None of the funds provided in this or any prior Act shall be available for obligation or expenditure to relocate, reorganize or consolidate any office, agency, function, facility, station, activity, or other entity falling under the jurisdiction of the Department of Justice.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISIONS

SEC. 201. (a) Section 8111 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-38) is amended by striking out "$1,163,200,000" and inserting in lieu thereof "$1,258,600,000".

(b) The additional funds made available pursuant to subsection (a) may be used only to cover costs related to underestimates of the cost of transporting exchange merchandise to overseas locations and to compensate for adverse changes in foreign currency exchange rates.

SEC. 202. Section 8119 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-39/40) is repealed.

SEC. 203. Section 8080 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by inserting the following provision at the end of the paragraph, after "skills": ": *Provided further,* That these limitations shall not apply to members who enlist in the armed services on or after July 1, 1989, under a fifteen-month program established by the Secretary of Defense to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense". 102 Stat. 2270-30.

SEC. 204. Section 8031 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-22/23) is amended by inserting "High mobility multipurpose wheeled vehicle;" after "M-1 tank Chassis;".

SEC. 205. The appropriation "Operation and Maintenance, Army" contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-2/3) is amended by adding the following after "Championships": ": *Provided further,* That, of the funds appropriated in this paragraph, $50,000,000 shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS) unless $50,000,000 of ECWCS is procured by the Army Stock Fund during fiscal year 1989".

SEC. 206. The Secretary of Defense may, in conjunction with the Office of Personnel Management, conduct a test program to adjust pay rates to reflect local prevailing rates of pay for civilian employees in the following health care occupations: nurse, physician assistant, medical records librarian, medical laboratory technician, and radiology technician. Wages. Government organization and employees.

SEC. 207. Section 8037 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-23), is amended by striking out "39 individuals" and inserting in lieu thereof "42 individuals".

SEC. 208. Within funds available to the Department of Defense, the Secretary of Defense shall transfer or otherwise make available funds as necessary to accommodate repair of real property, aircraft, and other Department of Defense assets damaged during the storm at Fort Hood, Texas, on May 13, 1989: *Provided,* That funds made available pursuant to this section shall be in accordance with established authorities and procedures. Disaster assistance. Texas.

CHAPTER III

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

GENERAL PROVISIONS

SEC. 301. None of the funds available to the Department of the Interior may be used to place on the National Register of Historic Places the Al Capone House at 7244 South Prairie Avenue, Chicago, Illinois.

Public buildings and grounds. Historic preservation.

SEC. 302. The King Center and the National Park Service are authorized to locate an additional parking site for the Martin Luther King National Historic Site within the National Historic Site and Preservation District Boundary in accordance with Federal and State preservation regulations, in lieu of the vacant lot on the north side of Irwin between Jackson and Boulevard as specified in Public Law 100-202.

CHAPTER IV

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

For the settlement of promissory notes issued to the Secretary of the Treasury, $10,770,941, to remain available until expended, together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes.

GENERAL PROVISIONS

102 Stat. 2148.

SEC. 401. Section 312 of Public Law 100-457 is amended by deleting "$276,000" and inserting in lieu thereof "$300,000".

New York. Bridges.

SEC. 402. Notwithstanding any other provision of law, the New York State Bridge Authority shall have the authority to collect tolls on the Newburgh-Beacon Bridge and to utilize the revenue therefrom for the construction and reconstruction of and for the costs necessary for the proper maintenance and operation of any bridges and facilities under the jurisdiction of such Authority and for the payment of debt service on any of the Authority's obligations issued in connection therewith.

102 Stat. 2154.

Section 341 of Public Law 100-457 is amended by deleting "2" and inserting in lieu thereof "4".

CHAPTER V

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

102 Stat. 1724.

Under this heading in the Treasury Department Appropriations Act, 1989, Public Law 100-440, after the words, *"Provided,* That", insert "with the exception of the transfer of two E2C aircraft to the United States Coast Guard,".

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

Funds appropriated under this heading in the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1989, Public Law 100-440, for construction of barriers at the south end of the White House shall remain available until expended.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

Section 103 under this heading in the Treasury Department Appropriations Act, 1989 (Public Law 100-440) is amended by striking "1 per centum" and inserting in lieu thereof "2 per centum". 102 Stat. 1727.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Notwithstanding any other provision of law, for an additional amount for "Salaries and expenses", for grants to the Popular Democratic Party, the New Progressive Party, and the Puerto Rican Independence Party of the Commonwealth of Puerto Rico, $1,500,000, to remain available until the sine die adjournment of the One Hundred First Congress: *Provided*, That grants shall be made to each such party in equal amounts, not to exceed $500,000 each: *Provided further*, That such funds shall be made available for necessary expenses incurred after March 1, 1989, to each such party to participate in the legislative process involving the future political status of Puerto Rico, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, and supplies and materials and other related services, and for administrative costs: *Provided further*, That under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the financial transactions made by each such party with such funds: *Provided further*, That such funds may not be used directly or indirectly to finance the campaigns of candidates for public office.

OTHER INDEPENDENT AGENCIES

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

Amounts made available under this heading in the Independent Agencies Appropriations Act, 1989 (Public Law 100-440), which are to be transferred from the Trust Funds for implementing the record-keeping system of the Federal Employees' Retirement System, shall remain available until expended.

GENERAL SERVICES ADMINISTRATION

ADMINISTRATIVE PROVISION

36 USC 1406 note.
Public buildings and grounds.
District of Columbia.

Notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall transfer to the administrative jurisdiction of the Holocaust Memorial Council (Council), without consideration, the Auditors West Building (Annex 3) located at Raoul Wallenberg Place and Independence Avenue Southwest, Washington, District of Columbia.

Historic preservation.

Prior to such transfer of jurisdiction to the Council, the Council shall agree to perform all necessary repairs and alterations to the Auditors West Building so as to renovate the exterior of the Audi-

tors West Building in a manner consistent with preservation of the historic architecture of the building, and to preserve the structural integrity of the building. The Council, prior to such transfer, shall furnish to the Administrator, for his approval, a plan detailing the repairs and alterations proposed, dates for completion of the work, and funding availability.

In the event the Council ceases to exist, administrative jurisdiction of the Auditors West Building (Annex 3) shall revert to the General Services Administration.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to be derived by transfer from "Expenses, Presidential Transition", General Services Administration.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

SEC. 201. (a) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to purchase, from annual funds available in the Federal Buildings Fund in fiscal year 1989, such additional furniture and equipment as may be necessary, not to exceed $1,500,000, for the National Oceanic and Atmospheric Administration to relocate to the Silver Spring, Maryland Metro Center.

(b) The National Oceanic and Atmospheric Administration will reimburse the General Services Administration for such expenditures in equal amounts over a period of two years, beginning in fiscal year 1990.

CHAPTER VI

DEPARTMENT OF VETERANS AFFAIRS

GENERAL OPERATING EXPENSES

The costs of external contract audits shall be charged to "Construction, major projects", "Construction, minor projects", and the "Supply fund", as appropriate, and be made retroactive to October 1, 1988.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Secretary of Housing and Urban Development may make amounts reserved or obligated under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for particular projects under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), available as subsidy amounts for such projects under section 202(h)(4) of such Act.

RENTAL HOUSING ASSISTANCE

Such sums as may be necessary are hereby approved to implement the authority conferred on the Secretary of Housing and Urban Development by section 236(r) of the National Housing Act to provide interest reductions and rental assistance payments: *Provided*, That notwithstanding the second sentence of such section 236(r), an application shall be eligible for assistance under such section if the mortgagee submits an application within five hundred and forty-eight days after the effective date of this Act. 12 USC 1715z-1 note.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

Funds under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 shall be made available for a special project under section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) to the Hawaii State Department of Hawaiian Home Lands, for infrastructure development on Hawaiian Home Lands, notwithstanding the restrictions on alienation applicable to such lands.

INDEPENDENT AGENCIES

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The limitation carried under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 on program development and management in fiscal year 1989 is increased by $750,000.

GENERAL PROVISION

Section 406 under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404) is amended by striking out "the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation" and inserting in lieu thereof "any officer or employee authorized such transportation under title 31, United States Code, section 1344". 102 Stat. 1038.

TITLE III—TECHNICAL ENROLLMENT CORRECTIONS

SEC. 301. The appropriation Operation and Maintenance, Navy as contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-3) is amended by striking out ", of which $60,000,000 shall be transferred to the Coast Guard".

SEC. 302. In Public Law 100-461, "An Act making appropriations for Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1989, and for other purposes", in TITLE V—GENERAL PROVISIONS, following the last "." in section 572, insert the following: 102 Stat. 2268-44.

"RESOLUTION OF JAPANESE BEETLE PROBLEM"

"SEC. 573. None of the funds appropriated by this Act may be used to fund any programs to assist in solving the Japanese beetle problem in the Azores. It is the sense of the Congress that this problem was created by the Department of Defense which should fund any program to resolve it.".

SEC. 303. In Public Law 100-446, "An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Navajo and Hopi Indian Relocation Commission" delete the sum "$27,323,000" and insert in lieu thereof "$27,373,000".

102 Stat. 1818.

SEC. 304. In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "National Agricultural Library", delete the sum "$13,268,000" and insert in lieu thereof "$14,268,000".

102 Stat. 2236.

SEC. 305. In Public Law 100-457, "An Act making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Urban Mass Transportation Administration, Interstate Transfer Grants-Transit" delete the sum "$2,000,000,000" and insert in lieu thereof "$200,000,000".

102 Stat. 2142.

TITLE IV—GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Communications and telecommunications.

SEC. 402. Notwithstanding section 1346 of title 31, United States Code, or section 608 of Public Law 100-440, funds made available for fiscal year 1989 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

Alcohol and alcoholic beverages. Labeling.

SEC. 403. No funds appropriated under this Act or any other Act shall be available to the Bureau of Alcohol, Tobacco and Firearms for the enforcement of section 204 of the Alcoholic Beverage Labeling Act of 1988, title VIII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 481), and regulations issued thereunder, as it relates to malt beverage glass returnable bottles of 12 ounces or less to which labels have been permanently affixed by means of painting and heat treatment, which were ordered on or before April 21, 1989: *Provided*, That the closure for such bottles contain the warning statement: *And provided further*, That any new returnable glass bottles ordered after April 21, 1989, will be in full compliance with section 204 and the regulations issued thereunder.

Drugs and drug abuse. Housing.

SEC. 404. (a) Within 6 months of the enactment of this Act and after granting notice and opportunity to comment to affected tenants, the Secretary shall review the drug-related eviction procedures of all jurisdictions having a Public Housing Authority for the purpose of determining whether such procedures meet Federal due process standards.

(b) Upon conclusion of the review mandated by subsection (a), if the Secretary determines that due process standards are met for a

jurisdiction, the Secretary shall issue that jurisdiction a waiver of the procedures required in section 6(k) of the United States Housing Act of 1937, 42 U.S.C. 1437d(k), for evictions involving drug-related criminal activity which threatens the health and safety of other tenants of public housing authority employees as long as evictions of a household member involved in drug-related criminal activity shall not affect the right of any other household member who is not involved in such activity to continue tenancy.

(c) Within 60 days of completion of the review mandated by subsection (a), the Secretary shall report to Congress the findings of the review including all waivers granted in accordance with subsection (b). Reports.

SEC. 405. SENSE OF THE SENATE REGARDING THE APPOINTMENT OF A NEW ADMINISTRATOR OF THE PANAMA CANAL COMMISSION.—It is the sense of the Senate that the President should not appoint a new Administrator of the Panama Canal Commission unless and until he certifies to Congress that the ruling government of Panama is democratically elected according to procedures specified in the Constitution of Panama providing for a civilian government in control of all Panamanian military and paramilitary forces.

SEC. 406. RESTORATION OF EASTERN AIRLINES.—

(a) FINDINGS.—The Senate finds that—

(1) the operations of Eastern Airlines have been substantially shut down since March 4, 1989, by a strike by the International Association of Machinists with the support of pilots and flight attendant unions;

(2) Eastern Airlines filed a petition under chapter 11 of title 11, United States Code, on March 9, 1989;

(3) Texas Air Corporation, which controls Eastern Airlines, had negotiated for the sale of Eastern;

(4) the organized employees of Eastern had agreed to provide a potential new owner with substantial wage concessions;

(5) the deregulation of the airline industry by Congress was predicated on the anticipated continued existence of strong, independent airlines, such as Eastern Airlines;

(6) the Bankruptcy Court has the power to appoint an independent trustee to manage Eastern's return to operation during the interim period, leading up to the consummation of the sale agreement and transfer of control to a potential owner; and

(7) the return of Eastern Airlines to full operation is in the public interest and in the best interest of the creditors, employees, and customers of Eastern as well as the economies of the communities, States and regions of the United States that Eastern serves.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Bankruptcy Court and all involved parties should facilitate the prompt and safe restoration of Eastern Airlines to full operations through all appropriate action, which may or may not include appointment of an independent trustee, pending sale of the company.

SEC. 407. RESPONSIBILITY FOR NUCLEAR, CHEMICAL, BIOLOGICAL, AND MISSILE NONPROLIFERATION.—

(a) RESPONSIBILITIES.—The responsibilities of the Under Secretary of State for Coordinating Security Assistance Policy shall include—

(1) coordinating United States diplomatic efforts to obtain the agreement of all appropriate countries to a missile technology control regime encompassing chemical, biological, and nuclear capable missiles; and

(2) coordinating policies within the United States Government on strategies for restricting the export to foreign countries of components of missiles which are capable of carrying nuclear, chemical, or biological weapons.

(b) REPORT REQUESTED.—The Secretary of State shall submit within ninety days of the date of enactment of this Act to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the Administration strategy for dealing with the missile proliferation issue, and specifying the steps taken to ensure that adequate resources will be allocated for that purpose.

(c) CONTENTS OF REPORT.—The report required in subsection (b) shall contain, but is not limited to—

(1) a discussion of efforts that can be made to strengthen the Missile Technology Control Regime to restrict the flow of Western missile hardware and knowhow;

(2) a discussion of ways to strengthen international arrangements, including the formation of a new international organization, to monitor missile-related exports and compliance with missile nonproliferation efforts; and

(3) a discussion of how incentives and threats of sanctions can be used to win the cooperation of more nations in controlling missile proliferation.

SEC. 408. TEMPORARY SUSPENSION OF RIGHT TO REPURCHASE STINGER MISSILES.—Notwithstanding section 573(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and section 566(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, the United States hereby suspends its obligation to repurchase STINGER antiaircraft missiles from Bahrain until October 31, 1989.

SEC. 409. EXEMPTION PROVIDED FOR NATIONAL COMMISSION ON CHILDREN FROM CERTAIN PROVISIONS OF TITLE 5.—Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended by striking subsection (f) and inserting in lieu thereof the following new subsection:

"(f)(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.".

Aircraft and air carriers.

SEC. 410. It is the sense of the Senate that the Secretary of Transportation should conduct a review of the potential impact of highly leveraged acquisitions of control of United States air carriers. The potential impacts to be addressed in such review should include the effects of increased expenses associated with increased debt on carriers' ability to—

(i) modernize their fleets;
(ii) make necessary expenditures for maintenance;
(iii) survive economic downturns (and the effect on competition among air carriers if some do not survive);
(iv) provide small community services;
(v) compete internationally against foreign airlines; and
(vi) make and/or keep the financial commitments to airport projects necessary to expand capacity and improve safety, and meet the future needs of their employees with regard to such matters as salaries, benefits, pensions, and job security and growth.

Pursuant to the conclusions of such review, the Secretary should make a report to the Congress and include in such report an assessment with respect to any major air carrier that is the object of a highly leveraged buy-out. Reports.

SEC. 411. The Secretary of Agriculture may use his section 32 authority in appropriate instances to stabilize the apple market and to satisfy the request of recipient agencies.

This Act may be cited as the "Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989".

Approved June 30, 1989.

LEGISLATIVE HISTORY—H.R. 2402:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 18, considered and passed House; considered and passed Senate, amended.
June 22, Senate receded from its amendment; reconsidered and passed Senate, amended.
June 23, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
June 30, Presidential statement.

Public Law 101-46
101st Congress

An Act

June 30, 1989
[S. 694]

To extend title I of the Energy Policy and Conservation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

42 USC 6251.

(1) in section 171, by striking out "June 30, 1989" each place it appears and inserting in lieu thereof "April 1, 1990"; and

50 USC app. 2071 notes.

(2) in section 104(b)(1), by striking out "June 30, 1989" and inserting in lieu thereof "April 1, 1990".

42 USC 6240 note.

SEC. 2. STUDY AND REPORT ON OIL LEASING AND OTHER ARRANGEMENTS TO FILL SPR TO ONE BILLION BARRELS.

(a) IN GENERAL.—The Secretary of Energy shall carry out a study on potential financial arrangements (including long-term leasing of crude oil and storage facilities) that could be used to provide additional, alternative means of financing the filling of the Strategic Petroleum Reserve to one billion barrels. In carrying out such study, the Secretary shall—

(1) assume that the legislation that extends title I of the Energy Policy and Conservation Act beyond April 1, 1990, will require the Secretary to amend, by July 1, 1990, the Strategic Petroleum Reserve Plan to provide plans for completion of storage of one billion barrels of petroleum products in the Reserve at an average fill-rate of at least seventy-five thousand barrels per day;

(2) consider a broad array of such arrangements;

(3) consult with persons in the private sector who might be interested in leasing crude oil or storage facilities;

(4) initiate, in cooperation with the Department of State, to the extent consistent with the interests of the United States, discussions with representatives of foreign governments and other entities as to the types of financial arrangements (including crude oil leasing arrangements) that would interest them; and

(5) produce preliminary written solicitations for proposed alternative financial arrangements (including long-term leasing of crude oil and storage facilities) to assist in filling the Strategic Petroleum Reserve to one billion barrels.

(b) REPORTS.—(1) The Secretary shall, no later than October 15, 1989, transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an interim report containing—

(A) an enumeration of the specific resources (both personnel and funding) committed to the study described in subsection (a);

(B) a description of the progress made toward completing the study; and

(C) any preliminary findings and conclusions made by such date.

(2) The Secretary shall, no later than February 1, 1990, transmit to such committees a copy of the solicitations described in paragraph (5) of subsection (a) and a final report containing the findings and conclusions of the study carried out under this section, together with a draft of the legislative changes that would be necessary to authorize the most significant alternative financial arrangements studied by the Secretary (including long-term leasing of crude oil and storage facilities) and recommendations of the Secretary with respect to the need for and desirability of such financial arrangements (including long-term leasing of crude oil and storage facilities).

(c) ENFORCEMENT.—Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of pursuant to any contract or other agreement entered into or extended on or after February 1, 1990, other than to the Strategic Petroleum Reserve (either directly or by exchange) until the Secretary of Energy has transmitted the solicitations and the final report described in subsection (b)(2) (including the legislative changes and recommendations described in such subsection) to the committees described in subsection (b)(1), except for the purposes provided in section 160(d)(2) of the Energy Policy and Conservation Act.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 694 (H.R. 2539):

HOUSE REPORTS: No. 101-86 accompanying H.R. 2539 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-33 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 31, considered and passed Senate.
June 20, H.R. 2539 considered and passed House; proceedings vacated and S. 694, amended, passed in lieu.
June 23, Senate concurred in House amendment with an amendment.
June 28, House concurred in Senate amendment.

Public Law 101-47
101st Congress

An Act

June 30, 1989
[S. 1077]

To authorize the President to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration.

49 USC 106 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration. Admiral Busey's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Busey shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Admiral Busey shall be subject to no supervision, control, restriction, or prohibition (military or other-

wise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 1077 (H.R. 2444):

HOUSE REPORTS: No. 101-108 accompanying H.R. 2444 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-56 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 21, considered and passed Senate.
June 22, considered and passed House.

Public Law 101-48
101st Congress

An Act

June 30, 1989
[S. 1180]

To authorize the President to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration.

42 USC 2472 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 202(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(a)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration. Admiral Truly's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he holds as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Truly shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the National Aeronautics and Space Administration, Admiral Truly shall be subject to no supervision, control, restriction, or prohibition

(military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Offices of Administrator and Deputy Administrator of the National Aeronautics and Space Administration.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 1180:

SENATE REPORTS: No. 101-57 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 21, considered and passed Senate.
June 22, considered and passed House.

Public Law 101-49
101st Congress

An Act

June 30, 1989
[S. 1184]

To allow the obsolete destroyer United States ship Edson (DD 946) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable sixty-day congressional review period.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete destroyer United States ship Edson (DD 946) to the Intrepid Sea-Air-Space Museum, a nonprofit corporation organized under the laws of the State of New York.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 1184:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 14, considered and passed Senate.
June 28, considered and passed House.

Public Law 101-50
101st Congress

Joint Resolution

Designating July 2, 1989, as "National Literacy Day".

June 30, 1989
[S.J. Res. 96]

Whereas literacy is a necessary tool for survival in our society;
Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;
Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;
Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;
Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;
Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;
Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;
Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;
Whereas the prison population represents the single highest concentration of adult illiteracy;
Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;
Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;
Whereas the 47 per centum illiteracy rate among black youths is expected to increase to 50 per centum by 1990;
Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;
Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;
Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1989, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S.J. Res. 96:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
June 29, considered and passed House.

Public Law 101-51
101st Congress

An Act

To redesignate the Federal hydropower generating facilities located at Dam B on the Neches River at Town Bluff, Texas, as the "Robert Douglas Willis Hydropower Project".

July 6, 1989
[H.R. 923]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION OF HYDROPOWER FACILITIES.

The Federal hydropower generating facilities located at Dam B on the Neches River at Town Bluff, Texas, is redesignated as the "Robert Douglas Willis Hydropower Project".

SEC. 2. REFERENCES.

Any reference in a law, rule, map, document, record, or other paper of the United States to the Federal hydropower generating facilities located at Dam B on the Neches River at Town Bluff, Texas, shall be deemed to be a reference to the "Robert Douglas Willis Hydropower Project".

Approved July 6, 1989.

LEGISLATIVE HISTORY—H.R. 923:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 11, considered and passed House.
June 23, considered and passed Senate.

Public Law 101-52
101st Congress

Joint Resolution

July 6, 1989
[H.J. Res. 132]

To designate the second Sunday in October of 1989 as "National Children's Day".

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1989 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved July 6, 1989.

LEGISLATIVE HISTORY—H.J. Res. 132 (S.J. Res. 15):

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 9, considered and passed House.
June 22, considered and passed Senate.

Public Law 101-53
101st Congress

An Act

July 6, 1989
[H.R. 2119]

To authorize the exchange of certain Federal public land in Madison County, Illinois.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCHANGE OF FEDERAL PUBLIC LAND.

(a) EXCHANGE OF LAND.—Subject to section 2, at such time as the Blue Tee Corporation conveys all right, title, and interest in and to the land described in subsection (b)(1) to the United States of America, the Secretary of the Army (hereinafter "Secretary") shall convey all right, title, and interest in and to the land described in subsection (b)(2) to the Blue Tee Corporation.

(b) DESCRIPTION OF LANDS.—The lands referred to in subsection (a) are the following:

(1) NON-FEDERAL LAND.—35.03 acres of land located in Madison County, Illinois, known as Government Tract Number 121 and owned by the Blue Tee Corporation.

(2) FEDERAL LAND.—58.64 acres situated in Madison County, Illinois, known as Government Tract Number 122 and administered by the United States Army Corp of Engineers, which is constructing the Melvin Price Lock and Dam Project on this land.

SEC. 2. CONDITIONS OF EXCHANGE.

The exchange of land authorized by section 1 shall be subject to the following conditions:

(1) DEEDS.—

(A) FEDERAL LAND.—The instrument of conveyance used to convey the land described in section 1(b)(2) to the Blue Tee Corporation shall contain such reservations, terms, and conditions as the Secretary of the Army considers necessary to allow the United States to construct, operate, and maintain the Melvin Price Lock on that land.

(B) NON-FEDERAL LAND.—The conveyance of the land described in section 1(b)(1) to the Secretary of the Army shall be by a warranty deed acceptable to the Secretary.

(2) REMOVAL OF IMPROVEMENTS.—The Blue Tee Corporation may remove any improvements on the land described in section 1(b)(1). Furthermore, the Secretary, at his discretion, may require the Blue Tee Corporation to remove any improvements on the land described in section 1(b)(1). In either case, the Blue Tee Corporation shall hold the United States harmless from liability, and the United States shall not incur any cost associated with the removal or relocation of such improvements.

(3) TIME LIMIT FOR EXCHANGE.—The land exchange authorized by section 1(a) must be completed within 2 years after the date of enactment of this Act.

(4) LEGAL DESCRIPTION.—The Secretary shall provide the legal description of the lands described in section 1(b). That legal description shall be used in the instruments of conveyance of such lands.

SEC. 3. VALUE OF PROPERTIES.

If the appraised fair market value, as determined by the Secretary, of the land conveyed to the Blue Tee Corporation by the Secretary under section 1(a) exceeds the appraised fair market value, as determined by the Secretary, of the land conveyed to the United States by the Blue Tee Corporation under section 1(a), the Blue Tee Corporation shall pay the difference to the United States.

Approved July 6, 1989.

LEGISLATIVE HISTORY—H.R. 2119:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 11, considered and passed House.
June 23, considered and passed Senate, amended.
June 28, House concurred in Senate amendments.

Public Law 101-54
101st Congress

Joint Resolution

July 7, 1989
[H.J. Res. 276]

Designating September 14, 1989, as "National D.A.R.E. Day".

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a semester-long program that teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol;

Whereas the D.A.R.E. program is also provided to kindergarten and junior high school students and their parents;

Whereas D.A.R.E. targets children when they are most vulnerable to tremendous peer pressure to try drugs and alcohol and teaches the skills to make positive decisions and resist pressure to engage in negative behaviors;

Whereas more than 1,200 communities in 48 States now conduct the D.A.R.E. program in their local schools, and a pilot program has been implemented for use internationally in the Department of Defense Dependent Schools;

Whereas almost 3 million students have been reached through D.A.R.E.;

Whereas because school children are frequently much more sophisticated about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers with direct experience in cases involving criminal activity and ruined lives caused by substance abuse;

Whereas each police officer who teaches the D.A.R.E. program completes an 80-hour training course that includes instruction in teaching techniques, officer-school relationship, development of self-esteem, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps students understand self-image, recognize stress and manage it without taking drugs, analyze and resist media presentations about alcohol and drugs, evaluate risk-taking behavior, resist gang pressure, apply decision making skills, and evaluate the consequences of the choices available to them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol, by contributing to improved study habits and grades and decreased vandalism and gang activity and by generating greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to what is one of the most difficult problems facing our young people today, namely drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 14, 1989, is designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved July 7, 1989.

LEGISLATIVE HISTORY—H.J. Res. 276 (S.J. Res. 121):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 6, considered and passed House.
June 22, considered and passed Senate.

Public Law 101-55
101st Congress

Joint Resolution

July 7, 1989
[H.J. Res. 298]

Designating July 14, 1989, as "National Day To Commemorate the Bastille Day Bicentennial".

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both peoples today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas on July 14, 1789, the people of France liberated the hated Bastille prison, thus signifying the triumph of liberty over tyranny;

Whereas within a period of 31 days, the National Assembly of France approved the Declaration of the Rights of Man and the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations; and

Whereas France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and the Citizen and the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 14, 1989, is designated as "National Day To Commemorate the Bastille Day Bicentennial", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved July 7, 1989.

LEGISLATIVE HISTORY—H.J. Res. 298:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 20, considered and passed House.
June 22, considered and passed Senate.

Public Law 101-56
101st Congress

An Act

To amend the Computer Matching and Privacy Protection Act of 1988 to delay the effective date of the Act for existing agency matching programs.

July 19, 1989
[H.R. 2848]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Computer Matching and Privacy Protection Act Amendments of 1989.
5 USC 552a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act Amendments of 1989".

SEC. 2. EFFECTIVE DATE DELAYED FOR EXISTING AGENCY MATCHING PROGRAMS.

(a) IN GENERAL.—Section 10 of the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 522a note) is amended by adding at the end the following new subsection:

5 USC 552a note.

"(c) EFFECTIVE DATE DELAYED FOR EXISTING PROGRAMS.—In the case of any matching program (as defined in section 552a(a)(8) of title 5, United States Code, as added by section 5 of this Act) in operation before June 1, 1989, the amendments made by this Act (other than the amendments described in subsection (b)) shall take effect January 1, 1990, if—

"(1) such matching program is identified by an agency as being in operation before June 1, 1989; and

"(2) such identification is—

"(A) submitted by the agency to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget before August 1, 1989, in a report which contains a schedule showing the dates on which the agency expects to have such matching program in compliance with the amendments made by this Act, and

"(B) published by the Office of Management and Budget in the Federal Register, before September 15, 1989.".

5 USC 552a note.

(b) CONFORMING AMENDMENT.—Section 10(a) of such Act is amended by striking "Except as provided in subsection (b)" and inserting "Except as provided in subsections (b) and (c)".

Approved July 19, 1989.

LEGISLATIVE HISTORY—H.R. 2848:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
July 13, considered and passed Senate.

Public Law 101-57
101st Congress

Joint Resolution

To designate the week of September 10, 1989, through September 16, 1989, as "National Check-Up Week".

July 21, 1989
[S.J. Res. 95]

Whereas more than 34,000,000 Americans are hospitalized each year;
Whereas nearly 66,000,000 Americans are afflicted with some form of heart or blood vessel disease;
Whereas approximately 34,000,000 Americans between the ages 24 and 74 suffer from obesity;
Whereas more than 60,000,000 Americans suffer from high blood pressure;
Whereas an estimated 25 percent of adult Americans have elevated blood cholesterol levels;
Whereas annual medical check-ups can decrease the number of hospitalizations, reduce the likelihood of a serious illness or premature death, and curb escalating health care costs; and
Whereas annual medical screening may reveal previously undetected high blood pressure, high blood cholesterol, cancer, and obesity-related ailments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 10 through September 16, 1989, is designated as "National Check-Up Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved July 21, 1989.

LEGISLATIVE HISTORY—S.J. Res. 95:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
June 29, considered and passed House.

Public Law 101-58
101st Congress

Joint Resolution

July 25, 1989
[H.J. Res. 174]

To designate the decade beginning January 1, 1990, as the "Decade of the Brain".

Whereas it is estimated that fifty million Americans are affected each year by disorders and disabilities that involve the brain, including the major mental illnesses; inherited and degenerative diseases; stroke; epilepsy; addictive disorders; injury resulting from prenatal events, environmental neurotoxins and trauma; and speech, language, hearing and other cognitive disorders;

Whereas it is estimated that treatment, rehabilitation and related costs of disorders and disabilities that affect the brain represents a total economic burden of $305,000,000,000 annually;

Whereas the people of the Nation should be aware of the exciting research advances on the brain and of the availability of effective treatment of disorders and disabilities that affect the brain;

Whereas a technological revolution occurring in the brain sciences, resulting in such procedures as positron emission tomography and magnetic resonance imaging, permits clinical researchers to observe the living brain noninvasively and in exquisite detail, to define brain systems that are implicated in specific disorders and disabilities, to study complex neuropeptides and behavior as well as to begin to learn about the complex structures underlying memory;

Whereas scientific information on the brain is amassing at an enormous rate, and the field of computer and information sciences has reached a level of sophistication sufficient to handle neuroscience data in a manner that would be maximally useful to both basic researchers and clinicians dealing with brain function and dysfunction;

Whereas advances in mathematics, physics, computational science, and brain imaging technologies have made possible the initiation of significant work in imaging brain function and pathology, modeling neural networks and simulating their dynamic interactions;

Whereas comprehending the reality of the nervous system is still on the frontier of technological innovation requiring a comprehensive effort to decipher how individual neurons, by their collective action, give rise to human intelligence;

Whereas fundamental discoveries at the molecular and cellular levels of the organization of the brain are clarifying the role of the brain in translating neurophysiologic events into behavior, thought, and emotion;

Whereas molecular biology and molecular genetics have yielded strategies effective in preventing several forms of severe mental retardation and are contributing to promising breakthroughs in the study of inheritable neurological disorders, such as Huntington's disease, and mental disorders, such as affective illnesses;

Whereas the capacity to map the biochemical circuitry of neurotransmitters and neuromodulators will permit the rational

design of potent medications possessing minimal adverse effects that will act on the discrete neurochemical deficits associated with such disorders as Parkinson's disease, schizophrenia and Alzheimer's disease;

Whereas the incidence of neurologic, psychiatric, psychological, and cognitive disorders and disabilities experienced by older persons will increase in the future as the number of older persons increases;

Whereas studies of the brain and central nervous system will contribute not only to the relief of neurologic, psychiatric, psychological, and cognitive disorders, but also to the management of fertility and infertility, cardiovascular disease, infectious and parasitic diseases, developmental disabilities and immunologic disorders, as well as to an understanding of behavioral factors that underlie the leading preventable causes of death in this Nation;

Whereas the central nervous and immune systems are both signalling systems which serve the entire organism, and there are direct connections between the nervous and immune systems, and whereas studies of the modulatory effects of each system on the other will enhance our understanding of diseases as diverse as the major psychiatric disorders, acquired immune deficiency syndrome, and autoimmune disorders;

Whereas recent discoveries have led to fundamental insights as to why people abuse drugs, how abused drugs affect brain function leading to addiction, and how some of these drugs cause permanent brain damage;

Whereas studies of the brain will contribute to the development of new treatments that will curtail the craving for drugs, break the addictive effects of drugs, prevent the brain-mediated "high" caused by certain abused drugs, and lessen the damage done to the developing minds of babies, who are the innocent victims of drug abuse;

Whereas treatment for persons with head injury, developmental disabilities, speech, hearing, and other cognitive functions is increasing in availability and effectiveness;

Whereas the study of the brain involves the multidisciplinary efforts of scientists from such diverse areas as physiology, biochemistry, psychology, psychiatry, molecular biology, anatomy, medicine, genetics, and many others working together toward the common goals of better understanding the structure of the brain and how it affects our development, health, and behavior;

Whereas the Nobel Prize for Medicine or Physiology has been awarded to fifteen neuroscientists within the past twenty-five years, an achievement that underscores the excitement and productivity of the study of the brain and central nervous system and its potential for contributing to the health of humanity;

Whereas the people of the Nation should be concerned with research into disorders and disabilities that affect the brain, and should recognize prevention and treatment of such disorders and disabilities as a health priority; and

Whereas the declaration of the Decade of the Brain will focus needed government attention on research, treatment, and rehabilitation in this area: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the decade beginning January 1, 1990, hereby is designated the "Decade of the

Brain", and the President of the United States is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to observe such decade with appropriate programs and activities.

Approved July 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 174 (S.J. Res. 173):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 29, considered and passed House.
July 13, considered and passed Senate.

Public Law 101-59
101st Congress

Joint Resolution

Designating January 7, 1990, through January 13, 1990, as "National Law Enforcement Training Week".

July 25, 1989
[S.J. Res. 137]

Whereas law enforcement training and sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 7, 1990,

through January 13, 1990, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.

Approved July 25, 1989.

LEGISLATIVE HISTORY—S.J. Res. 137:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
June 29, considered and passed House.

Public Law 101-60
101st Congress

An Act

To amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such Act.

July 26, 1989
[H.R. 1722]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Natural Gas Wellhead Decontrol Act of 1989.
15 USC 3301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Gas Wellhead Decontrol Act of 1989".

SEC. 2. DEREGULATION OF FIRST SALES OF NATURAL GAS.

(a) INTERIM ELIMINATION OF CERTAIN MAXIMUM LAWFUL PRICES.—Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331) is amended by adding at the end the following new subsection:

"(f) ADDITIONAL DECONTROL.—The provisions of subtitle A respecting the maximum lawful price for a first sale of natural gas shall cease to apply to natural gas described in paragraphs (1), (2), (3), and (4), as follows:

"(1) EXPIRED, TERMINATED, OR POST-ENACTMENT CONTRACTS.—In the case of natural gas to which no first sale contract applies on the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, subtitle A shall not apply to any first sale of such natural gas delivered on or after the first day after such date of enactment.

"(2) EXPIRING OR TERMINATING CONTRACTS.—In the case of natural gas to which a first sale contract applies on the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, but to which such contract ceases to apply after such date of enactment, subtitle A shall not apply to any first sale of such natural gas delivered after such contract ceases to apply.

"(3) CERTAIN RENEGOTIATED CONTRACTS.—In the case of natural gas to which a first sale contract applies on the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, where the parties have expressly agreed in writing after March 23, 1989, that all or part of the gas sold under such contract shall not be subject to any maximum lawful price under subtitle A after a specified date, subtitle A shall not apply to any first sale of the natural gas subject to such express agreement delivered on or after the date so specified, except that subtitle A shall not cease to apply to any such natural gas pursuant to this paragraph before the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989.

"(4) NEWLY SPUDDED WELLS.—In the case of natural gas produced from a well the surface drilling of which began after the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, subtitle A shall not apply to any first sale of such natural gas delivered on or after May 15, 1991.

For purposes of this subsection, a first sale contract applies to natural gas when the seller has a contractual obligation to deliver such natural gas under such contract.".

Effective date.

(b) PERMANENT ELIMINATION OF WELLHEAD PRICE CONTROLS.—Title I of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311-3333) is repealed, effective on January 1, 1993.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS EFFECTIVE UPON ENACTMENT.—The Natural Gas Policy Act of 1978 is amended as follows:

(1) The table of contents in section 1(b) (15 U.S.C. 3301 note) is amended—

(A) in the item relating to section 315, by striking "Contract duration; filing" and inserting in lieu thereof "Filing"; and

(B) by striking the item relating to section 507.

(2) Section 315 (15 U.S.C. 3375) is amended—

(A) in the section heading, by striking "CONTRACT DURATION;"; and

(B) by striking "(a) CONTRACT DURATION.—" and all that follows through "(b) FILING OF CONTRACTS AND ANCILLARY AGREEMENTS.—".

(3) Section 502(d) (15 U.S.C. 3412(d)) is repealed.

(4) Section 504(b) (15 U.S.C. 3414(b)) is amended—

(A) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)";

(B) by striking paragraph (3); and

(C) in paragraph (4), by striking "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1) or (2)".

(5) Section 506(d) (15 U.S.C. 3416(d)) is repealed.

(6) Section 507 (15 U.S.C. 3417) is repealed.

(7) Section 601 (15 U.S.C. 3431) is amended—

(A) by amending subsection (a)(1)(E) to read as follows: "(E) CERTAIN ADDITIONAL NATURAL GAS.—For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply solely by reason of any first sale of natural gas which is committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act and which is not subject to a maximum lawful price under subtitle A of title I by reason of section 121(f), effective as of the date such gas ceases to be subject to such maximum lawful price."; and

(B) in subsection (c)(2), by striking "purchase of natural gas" and all that follows through "under section 202)," and inserting in lieu thereof "purchase of natural gas if, under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act,".

(b) AMENDMENTS EFFECTIVE ON JANUARY 1, 1993.—Effective on January 1, 1993, the Natural Gas Policy Act of 1978 is amended as follows:

(1) The table of contents in section 1(b) (15 U.S.C. 3301 note) is amended by striking the items relating to title I and section 503.

(2) Section 312(c) (15 U.S.C. 3372(c)) is amended by striking "any natural gas" and all that follows through "(3)" and inserting in lieu thereof "any natural gas".

(3) Section 313 (15 U.S.C. 3373) is amended by inserting ", as such section was in effect on January 1, 1989" after "section 107(c)" both places it appears, and after "section 105(b)(3)(B)" both places it appears.

(4) Section 501(c) (15 U.S.C. 3411(c)) is repealed.

(5) Section 503 (15 U.S.C. 3413) is repealed.

(6) Section 504(a) (15 U.S.C. 3414(a)) is amended by striking "person" and all that follows through "to otherwise" and inserting in lieu thereof "person to".

(7) Section 601 (15 U.S.C. 3431) is amended—

(A) by amending subsection (a)(1)(A) to read as follows: "(A) APPLICATION TO FIRST SALES.—For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply to any natural gas solely by reason of any first sale of such natural gas.";

(B) by striking subparagraphs (B) and (E) of subsection (a)(1);

(C) by redesignating subparagraphs (C) and (D) of subsection (a)(1) as subparagraphs (B) and (C), respectively;

(D) in subsection (a)(1)(C) (as redesignated by subparagraph (C) of this paragraph), by striking "subparagraph (A), (B), or (C)" and inserting in lieu thereof "subparagraph (A) or (B)";

(E) by amending subsection (b)(1)(A) to read as follows: "(A) FIRST SALES.—Except as otherwise provided in this subsection, for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable."; and

(F) in subsection (b)(1)(D), by striking "if such amount does not exceed the applicable maximum lawful price established under title I of this Act".

(8) Section 602(a) (15 U.S.C. 3432(a)) is amended—

(A) by striking "AUTHORITY TO PRESCRIBE LOWER" and inserting in lieu thereof "AUTHORITY TO PRESCRIBE"; and

(B) by striking "which does not exceed the applicable maximum lawful price, if any, under title I of this Act".

Approved July 26, 1989.

LEGISLATIVE HISTORY—H.R. 1722 (S. 783):

HOUSE REPORTS: No. 101-29 (Comm. on Energy and Commerce) and No. 101-100 (Comm. of Conference).

SENATE REPORTS: No. 101-38 accompanying S. 783 (Comm. on Energy and Natural Resources) and No. 101-39 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Apr. 17, considered and passed House.

June 8, 9, 13, 14, considered and passed Senate, amended.

June 22, Senate agreed to conference report.

July 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):

July 26, Presidential remarks and statement.

Public Law 101-61
101st Congress

Joint Resolution

July 26, 1989
[S.J. Res. 85]

To designate the week of July 24 to July 30, 1989, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War".

Whereas on June 25, 1950, the Communist army of North Korea invaded and attacked South Korea, initiating the Korean war;
Whereas the week of July 24 to July 30, 1989, includes July 27, the thirty-sixth anniversary of the cease-fire agreement that ended the active combat of the Korean war;
Whereas the Korean war was brought to an end primarily through the efforts of the United States Armed Forces;
Whereas for the first and only time in history a United Nations command was created, with the United States as the executive agent, to repel this invasion and preserve liberty for the people of the Republic of Korea;
Whereas, in addition to the United States and the Republic of Korea, twenty other member nations provided military contingents to serve under the United Nations banner;
Whereas, after three years of active hostilities, the territorial integrity of the Republic of Korea was restored, and the freedom and independence of its people are assured even to this date;
Whereas over five million seven hundred thousand American servicemen and women were involved directly or indirectly in the war;
Whereas American casualties during that period were fifty-four thousand two hundred and forty-six dead, of which thirty-three thousand six hundred and twenty-nine were battle deaths, one hundred and three thousand two hundred and eighty-four were wounded, eight thousand one hundred seventy-seven listed as missing or prisoners of war, and three hundred and twenty-eight prisoners of war are still unaccounted for;
Whereas, although the Korean war has been known as America's "Forgotten War", those who served have never forgotten, and this Nation should never forget the sacrifice made by those who fought and died in Korea for the noble and just cause of freedom;
Whereas the Congress and the President of the United States have enacted a law authorizing the establishment of a Korean War Veterans Memorial in the Nation's Capital to recognize and honor the service and sacrifice of those who participated in the Korean war;
Whereas increasing numbers of Korean war veterans are setting aside July 27, the anniversary date of the armistice, as a special day to remember those with whom they served and to honor those who made the supreme sacrifice in a war to preserve the ideals of freedom and independence; and
Whereas on this significant anniversary of the cease-fire which started the longest military armistice in modern history, it is right and appropriate to recognize, honor, and remember the service and sacrifice of those who endured the rigors of combat and the

extremes of a hostile climate under the most trying conditions and still prevailed to preserve the independence of a free nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of July 24 to July 30, 1989, is designated as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, and to urge the departments and agencies of the United States and interested organizations, groups, and individuals to fly the American flag at half staff on July 27, 1989, in honor of those Americans who died as a result of their service in Korea.

Approved July 26, 1989.

LEGISLATIVE HISTORY—S.J. Res. 85:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 21, considered and passed House.

Public Law 101-62
101st Congress

An Act

July 26, 1989
[H.R. 2214]

To ratify certain agreements relating to the Vienna Convention on Diplomatic Relations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 101(d) of Public Law 99-239, the following agreements are approved and shall enter into force in accordance with their terms:

48 USC 1681 note.
Marshall Islands.

(1) "Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands to Amend the Governmental Representation Provisions of the Compact of Free Association Pursuant to section 432 of the Compact", signed on March 18, 1988; and

Micronesia.

(2) "Agreement Between the Government of the United States and the Government of the Federated States of Micronesia to Amend the Governmental Representation Provisions of the Compact of Free Association Pursuant to section 432 of the Compact", signed on March 9, 1988.

Approved July 26, 1989.

LEGISLATIVE HISTORY—H.R. 2214:

HOUSE REPORTS: No. 101-111 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
July 13, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
July 26, Presidential statement.

Public Law 101-63
101st Congress

Joint Resolution

Designating October 5, 1989, as "Raoul Wallenberg Day".

July 27, 1989
[S.J. Res. 110]

Whereas in January 1944, the United States War Refugee Board asked Sweden to send a representative to Hungary to organize rescue operations for the Hungarian Jewish community which was marked for liquidation by the Nazis;

Whereas the Swedish representative, Raoul Wallenberg, through a combination of what has been described as "bluff, heroism, and a contempt for convention" waged a bold campaign in Hungary to thwart the "final solution";

Whereas in the 6 months he was in Budapest, Raoul Wallenberg managed to, directly and indirectly, save the lives of some 100,000 men, women, and children;

Whereas Raoul Wallenberg risked his own life countless times during his work, dragging Jews from trains bound for gas chambers, bringing food and blankets to those on death marches, and unflinchingly challenging Nazi authorities;

Whereas Raoul Wallenberg was taken into Soviet "protective custody" on January 13, 1945, in violation of international standards of diplomatic immunity;

Whereas Soviet officials originally denied having custody of Wallenberg, but subsequently stated that a prisoner named "Wallenberg" died in a Soviet prison on July 17, 1947;

Whereas eyewitness accounts over the years, and as recently as December 1986, indicate that Raoul Wallenberg may indeed still be alive and imprisoned in the Soviet Union;

Whereas the Soviet Union has never produced a death certificate or the remains of Raoul Wallenberg to prove that he died;

Whereas the Soviet Union, despite numerous attempts by Swedish and American officials, refuses to look into the reports that Raoul Wallenberg is still alive;

Whereas just as Raoul Wallenberg did not forget the Jewish people when it seemed that the rest of the world had forgotten, Raoul Wallenberg and all that he did for the cause of humanity must never be forgotten; and

Whereas on October 5, 1981, the President of the United States signed into law a proclamation making Raoul Wallenberg an honorary citizen of the United States: Now, therefore, be it

best copy available

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 5, 1989, is designated as "Raoul Wallenberg Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved July 27, 1989.

LEGISLATIVE HISTORY—S.J. Res. 110:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 17, considered and passed House.

Public Law 101-64
101st Congress

Joint Resolution

To designate October 1989 as "Polish American Heritage Month".

July 27, 1989
[S.J. Res. 93]

Whereas the first Polish immigrants to North America were among the settlers of Jamestown, Virginia, in the 17th century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was directly modeled on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish people to regain their freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of Nobel Peace Prize Laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 45th anniversary this year and is celebrating October 1989 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "Polish American Heritage Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved July 27, 1989.

LEGISLATIVE HISTORY—S.J. Res. 93:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
July 17, considered and passed House.

Public Law 101-65
101st Congress

Joint Resolution

July 28, 1989
[S.J. Res. 129]

To provide for the designation of September 15, 1989, as "National POW/MIA Recognition Day"

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;
Whereas many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and
Whereas the sacrifices of Americans still missing and unaccounted for and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1989, is hereby designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

Approved July 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 129:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 13, considered and passed Senate.
July 17, considered and passed House.

Public Law 101-66
101st Congress

Joint Resolution

Designating the week beginning July 23, 1989, as "Lyme Disease Awareness Week".

July 28, 1989
[S.J. Res. 142]

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Burrelia Burgdorferi;
Whereas these ticks are no larger than the head of a pin;
Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;
Whereas these ticks can be transferred from domestic animals to humans;
Whereas Lyme disease was first diagnosed in southeastern Connecticut and has spread to forty-three States;
Whereas the Centers for Disease Control has reported fourteen thousand cases of Lyme disease since 1982;
Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);
Whereas the early symptoms of Lyme disease are a rash, mild headaches, a slight fever, and swollen glands;
Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;
Whereas if left untreated, Lyme disease can cause severe depression, brain disorders, and even death;
Whereas the best cure for Lyme disease is prevention;
Whereas prevention of Lyme disease depends upon public awareness; and
Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 23, 1989, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved July 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 142:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 21, considered and passed House.

Public Law 101-67
101st Congress

An Act

July 31, 1989
[H.R. 1485]

To direct the sale of certain lands in Clark County, Nevada, to meet national defense and other needs; to authorize the sale of certain other lands in Clark County, Nevada; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Apex Project, Nevada Land Transfer and Authorization Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Apex Project, Nevada Land Transfer and Authorization Act of 1989".

SEC. 2. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—Congress finds the following—

(1) The only two domestic producers of ammonium perchlorate ("AP"), a principal component of solid rocket fuel essential to the Nation's defense and space programs, are Pacific Engineering and Production Company, Incorporated ("Pepcon") and Kerr-McGee Chemical Corporation ("Kerr-McGee"), which established production facilities near the city of Henderson in Clark County, Nevada ("the county"). On May 4, 1988, an explosion destroyed the Pepcon plant, thereby substantially reducing the Nation's capacity to produce solid rocket fuel.

(2) A commission subsequently appointed by the Governor of Nevada to examine the adequacy of existing policies and regulations pertaining to the manufacture and storage of certain industrial materials has recommended new policies which imply the desirability of relocating both some of Kerr-McGee's AP production and storage facilities and also other industries to a less densely populated part of Clark County, but within reasonable distance of the present work force.

(3) The Department of Defense and the National Aeronautics and Space Administration have identified an urgent need to replace the domestic ammonium perchlorate production capacity lost in the Pepcon accident and to firm up existing production capabilities in order to meet current shortages and long-term requirements.

(4) The county has identified as the preferred site for the relocation of Kerr-McGee's AP facilities approximately thirty-seven hundred acres of land ("Kerr-McGee Site"), which is part of approximately twenty-one thousand acres of Federal lands, identified by the county as the "Apex Site", managed by the Bureau of Land Management ("BLM"). The county has advised the BLM it would like to purchase some or all of the lands comprising the Apex Site for development as a heavy-industry use zone, to locate potentially hazardous facilities. Orderly and appropriate development of such an industrial zone, in a manner consistent with public safety, protection of environmental and other values, and relevant State and Federal poli-

cies and programs (including the national defense) would be preferable to development of the lands comprising the Apex Site in an unplanned manner.

(5) The Federal lands comprising the Apex Site are presently classified for retention and multiple use by the applicable BLM land use plan. At the time the current land use plan was developed, disposal of large parcels of land immediately outside the Las Vegas Valley was not identified as a possibility. However, the expeditious transfer of the Kerr-McGee Site to Clark County for resale to Kerr-McGee, and transfer of necessary associated rights-of-way to the county, will serve an important national need which cannot be served as well on non-Federal land in Clark County and which outweighs other existing and potential public uses of the lands which would be served by maintaining them in Federal ownership.

(6) Kerr-McGee has prepared an environmental assessment on the proposed transfer of the Kerr-McGee Site and supporting utility and transportation rights-of-way, dated April 1989, entitled "Apex Nevada Land Transfer Proposal and Proposed Kerr-McGee Ammonium Perchlorate Facility", which identifies certain environmental impacts likely to result from the transfer of the site and supporting rights-of-way to the county which would be mitigated with various control measures. Any transfer by the United States of lands within the Apex Site should be conditioned upon provision of all measures appropriate to prevent or mitigate adverse environmental impacts.

(7) Lands within the Apex Site provide habitat for the desert tortoise. The BLM, recognizing that the desert tortoise habitat found in Nevada, and elsewhere, is being significantly affected, especially within the Mojave Desert, by the rapid development associated with industrial growth and by other human activities, has prepared a rangewide plan for desert tortoise habitat management on the public lands. The goal of this plan is to ensure that viable desert tortoise populations will continue to exist through cooperative resource management aimed at protecting the species and its habitat. The BLM's implementation of this plan should be accelerated.

(8) Lands within the Apex Site are close to Nellis Air Force Base and to public lands withdrawn for use by the Air Force as part of the Nellis Air Force Range complex. Nellis Air Force Base is the most active military airfield in the United States (with many of the aircraft using the base carrying live ordnance) and, together with the Nellis Air Force Range, constitutes a unique facility that plays a vital role in maintaining the combat capability of the Air Force's tactical units. Maintaining the capability of Nellis Air Force Base to fulfill its mission must be a central part of any decisions concerning future use or disposition of the lands within the Apex Site.

(b) DEFINITIONS.—As used in this Act, the following terms shall have the following meanings—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "lands" means lands and interests therein.

(3) The term "county" or "Clark County" means Clark County, Nevada.

(4) The term "Kerr-McGee" means the Kerr-McGee Chemical Corporation.

(5) The term "BLM's Desert Tortoise Plan" means the plan entitled "Desert Tortoise Habitat Management on the Public Lands: A Rangewide Plan", approved November 14, 1988.

(6) All other terms shall have the same meaning as such terms have when used in the Federal Land Policy and Management Act of 1976.

SEC. 3. KERR-McGEE SITE TRANSFER.

(a) DIRECTED SALE.—Subject to all valid existing rights, the Secretary is directed to convey the public lands comprising approximately thirty-seven hundred acres designated as "Area 1" and "Area 2" within the "Kerr-McGee Site" on the map entitled "Apex Heavy-Industry Use Zone" dated May 1989, to Clark County, Nevada, solely for sale to Kerr-McGee, in return for payment of the lands' appraised fair market value, as determined by the Secretary in accordance with established appraisal practices. However, the lands within Area 1 shall not be conveyed unless and until the Secretary has received a written commitment from Clark County and Kerr-McGee that whichever is offered the opportunity to purchase the lands within Area 2 will do so at such lands' appraised fair market value when the lands are offered pursuant to subsection (c) of this section.

Utilities.
Transportation.

(b) RIGHTS-OF-WAY.—Subject to all valid existing rights, the Secretary is directed to grant utility and transportation rights-of-way to Clark County for the connection of existing electric power, water, natural gas, telephone, railroad and highway facilities to the Kerr-McGee Site, all as generally depicted on the map entitled "Rights-of-Way and Proposed Access and Utility Locations" dated May 1989. Each right-of-way shall not exceed two hundred feet in width and shall not preclude the Secretary from permitting other uses of the affected lands compatible with the uses for which such rights-of-way are granted. Clark County may permit other parties to use the lands covered by such rights-of-way for some or all of the purposes specified in this subsection.

(c) TIMING, ETC.—(1) Subject to subsections (a) and (b) of this section, the Secretary shall offer to sell to Clark County the lands within the Kerr-McGee Site depicted as Area 1 and shall offer to grant the rights-of-way described in subsection (b) of this section to Clark County within thirty days of the date of enactment of this Act, but the Secretary's duty to transfer such lands and rights-of-way shall not lapse if they are not offered to the county within the prescribed time. Such sale shall be for fair market value, as determined by the Secretary in accordance with established procedures of the BLM. If Clark County fails to purchase such lands within sixty days of receiving the Secretary's offer, the lands and rights-of-way shall be offered to Kerr-McGee for sale and grant on the same basis, and subject to Kerr-McGee's entering into an agreement with the Secretary similar to the agreement described in section 6(a). If within sixty days after such offer, Kerr-McGee fails to purchase such lands, the lands shall become subject to the authorization provided for in section 4 of this Act, and the total acreage authorized for disposition under this section shall be increased accordingly.

(2) If the lands within Area 1 are purchased pursuant to paragraph (1) of this subsection, upon completion of a survey of the boundaries of Area 2, the Secretary shall offer to sell to the purchaser of Area 1 the lands within Area 2 at their appraised fair

market value, as determined by the Secretary in accordance with established procedures of the BLM.

(3) Each right-of-way granted pursuant to this section shall be subject to rental payments and other conditions provided for in applicable law, including the Federal Land Policy and Management Act of 1976 and this Act. The amounts received by the United States from sales of lands covered by this section shall be distributed pursuant to laws generally applicable to sales of public lands.

SEC. 4. AUTHORIZATION FOR ADDITIONAL TRANSFERS.

(a) SALE AUTHORIZED.—Notwithstanding any BLM land use plan calling for retention of the Apex Site and notwithstanding the reporting requirements and competitive bidding requirements of section 203 of the Federal Land Policy and Management Act of 1976, the Secretary is authorized, subject to any other requirements of law, including the conditions of this section, to sell to Clark County some or all of the lands within the Apex Site, depicted on the map referred to in section 3(a), that lie outside the boundaries of the Kerr-McGee Site (as depicted on such map) for fair market value as determined by the Secretary in accordance with established appraisal procedures.

(b) REQUIREMENTS AND CONDITIONS.—If, no later than one year after the date of enactment of this Act, the county demonstrates to the satisfaction of the Secretary that the county has designated the lands comprising the Apex Site as a heavy-use industrial zone, pursuant to applicable laws of the State of Nevada, and has adopted a plan for the development of some or all of such lands accordingly, the Secretary shall offer to enter into a land sales agreement with Clark County for the transfer of some or all of such lands to the county by one or more direct sales pursuant to this section over a period not to exceed ten years. Such agreement shall provide for purchasers of parcels of the lands within the Apex Site, with any specific parcels to be sold to be determined by the Secretary, in response to proposals by the county and after consultation with the Secretary of the Air Force concerning any potential impact of any such sale on activities associated with Nellis Air Force Base. The purchase price for each parcel shall be its appraised fair market value at the time of the sale, but any agreement between the county and the Secretary under this section shall provide that if the county sells any such parcel or portion thereof, the county shall pay to the United States an amount equal to 50 per centum of the amount by which the amount received by the county exceeds 110 per centum of the sum equal to the total amounts expended by the county for acquisition of such parcel or portion thereof, for improvements to such parcel or portion thereof, and for preparation of such parcel or portion thereof for sale. Contracts.

(c) RIGHTS-OF-WAY.—Pursuant to applicable law, the Secretary may grant Clark County such rights-of-way on public lands as may be necessary to support the development as a heavy-use industrial zone of some or all of the lands identified in subsection (a).

(d) PROCEDURES.—Except as specified in subsection (a) nothing in this section shall relieve the Secretary from compliance with all laws applicable either to the transfer of some or all of the lands identified in subsection (a) or to the granting of any rights-of-way, including, but not limited to, the National Environmental Policy Act of 1969. Unless otherwise specified in this Act, sales of lands pursuant to this section shall be made and patents or other docu- Patents and trademarks.

ments of conveyance shall be issued as if such sales were made pursuant to the Federal Land Policy and Management Act of 1976.

Minerals and mining. Energy.

(e) WITHDRAWAL, ETC.—(1) Subject to all valid existing rights, the lands within the Apex Site (depicted on the map referred to in section 3(a)) are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining law, and from operation of the mineral leasing and geothermal leasing laws, but shall remain available for disposition under the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.) and for sale under this Act or other applicable law. This withdrawal shall continue in effect until a parcel of land affected by such withdrawal is sold, if such sale includes the right, title and interest of the United States in the minerals in such parcel. If the county or another party to whom such parcel is offered, elects not to seek to purchase the minerals in any such parcel, such parcel shall remain withdrawn from entry, location, or patent under the mining laws but after receipt by the Secretary of notification that the county or other offeree does not seek to purchase such minerals, such parcel shall be open to operation of the mineral leasing and geothermal leasing laws. The withdrawal made by this subsection shall continue for twelve years after the date of enactment of this Act or until otherwise provided by an Act of Congress enacted after the date of enactment of this Act.

(2) Before offering any parcel for sale pursuant to an agreement with the county under this section, the Secretary (in addition to other requirements of law) shall consider whether development of such parcel as part of a heavy-use industrial zone, including any appropriation mitigation measures, would be inconsistent with BLM's Desert Tortoise Plan.

Claims.

(f) COGENERATION PROJECT.—Notwithstanding any withdrawal of the Apex Site (depicted on the map referred to in section 3(a)), and subject to the provisions of applicable law, the Secretary may grant to holders of valid existing mill-site claims on such lands such rights-of-way as may be necessary for the construction, operation, and maintenance of facilities required in the cogeneration of electricity at the site of existing mill-site operations on such claims, unless and until the land subject to such claims is transferred out of Federal ownership. No such grant shall be made unless and until all environmental studies required in connection with such construction, operation, and maintenance have been completed and any necessary mitigation measures have been agreed to.

SEC. 5. RESERVATION OF RIGHT-OF-WAY CORRIDORS.

The transfer of lands pursuant to section 4 of this Act shall be subject to the reservation to the United States of the right-of-way corridors depicted on a map entitled "Right-of-Way Corridors Across the Apex Heavy Industrial Zone" dated May 1989. These corridors shall be administered by the Secretary, who may grant rights-of-way over, upon, under and through the corridors consistent with applicable law. In the administration of such corridors, the Secretary shall, so far as feasible, locate rights-of-way so as to have the least possible impact on any industrial uses. Nothing in this Act shall be construed as restricting the authority of the Secretary, under the Federal Land Policy and Management Act of 1976 or other applicable law, to reserve or grant any other rights-of-way with respect to such lands, in addition to the rights-of-way described on such map.

SEC. 6. ENVIRONMENTAL CONSIDERATIONS.

(a) KERR-MCGEE SITE.—The Secretary shall not make the conveyance directed by section 3 until Kerr-McGee and Clark County have entered into a written agreement with the Secretary whereby Kerr-McGee and the county commit to undertake the measures specified in the document identified in section 2(a)(6) in order to mitigate adverse effects on wildlife and other resources and values resulting from the use of such lands for industrial purposes. At the request of the Secretary, the Attorney General of the United States may bring an appropriate legal action to enforce such agreement. Wildlife.

(b) BLM REPORTS.—(1) No later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report as to the funds and personnel required to fully implement BLM's Desert Tortoise Plan.

(2) As soon as possible after the date of enactment of this Act, the Secretary, acting through the Director of the Bureau of Land Management, shall arrange for a class-three soil survey of public lands in Clark County, to assist in the implementation in such county of BLM's Desert Tortoise Plan and other aspects of the management of the public lands in such county.

(3) As soon as possible after the date of enactment of this Act, the Secretary shall invite public proposals for the designation, pursuant to the Federal Land Policy and Management Act of 1976, of areas of critical environmental concern whose designation would further the implementation of BLM's Desert Tortoise Plan or otherwise assist in the protection of resources and values of public lands in Nevada. The Secretary shall provide a reasonable period for receipt of such proposals, shall evaluate all proposals received, and shall take such action thereon as the Secretary considers appropriate.

(4) As soon as possible after the date of enactment of this Act, the Secretary shall consider the desirability of restricting or eliminating uses of public lands in the Paiute Valley which may conflict with implementation of BLM's Desert Tortoise Plan with respect to those lands. No later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report concerning the results of the Secretary's actions pursuant to this paragraph.

(c) OTHER REPORTS.—(1) At the time that the President submits a budget request for fiscal year 1991, and annually thereafter for fifteen years, the Secretary shall submit to the Congress a statement of the total amounts received by the United States as the result of sales of public lands described in this Act, and an account of the distribution of such receipts.

(2) No later than ninety days after the date of enactment of this Act, the Secretary shall evaluate the desirability of acquisition of the lands specified in appendix A to the report of the Committee on Interior and Insular Affairs of the United States House of Representatives to accompany H.R. 1485 of the One Hundred First Congress (House Report 101-79). Such evaluation shall be based solely on the resources and values of such lands and the extent to which national policies and programs for management of such resources and values would be furthered by such acquisition.

Promptly after the completion of such evaluation, the Secretary shall report the results thereof to the Committee on Interior and Insular Affairs of the United States House of Representatives, the Committee on Energy and Natural Resources of the United States Senate, and the Representatives and Senators from the State of Nevada.

SEC. 7. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the lands identified in sections 3, 4, and 5 with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions. The maps and legal descriptions shall be on file and available to public inspection in the offices of the Director of the BLM.

Public information.

Approved July 31, 1989.

LEGISLATIVE HISTORY—H.R. 1485:

HOUSE REPORTS: No. 101-79, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-65 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 20, considered and passed House.
July 14, considered and passed Senate, amended.
July 19, House concurred in Senate amendments.

Public Law 101-68
101st Congress

An Act

To remove a restriction from a parcel of land in Roanoke, Virginia, in order for that land to be conveyed to the State of Virginia for use as a veterans nursing home.

Aug. 1, 1989
[H.R. 310]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF RESTRICTION.

(a) IN GENERAL.—Subject to section 2, the Secretary of the Interior shall execute such instruments as may be necessary to remove the restriction that the parcel of land described in subsection (b) be used exclusively for public park or public recreation purposes in perpetuity on the condition that the city of Roanoke, Virginia, transfer such land to the State of Virginia for use as a veterans nursing home.

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is that parcel known as Veterans Park which is comprised of approximately 16.8 acres and was conveyed to the city of Roanoke, Virginia, by the United States on June 25, 1980 (recorded in the city of Roanoke Deed Book 1455, page 1154).

SEC. 2. LIMITATION ON REMOVAL.

The Secretary of the Interior may not remove the restriction described in section 1(a) if, within 4 years after the date of enactment of this Act, the State of Virginia has not committed funds with respect to the parcel described in section 1(b) in an amount sufficient—

(1) to comply with the State's obligation under section 5035 of title 38, United States Code (relating to applications with respect to projects; payments), or

(2) to construct, without a Federal grant, a veterans nursing home.

SEC. 3. REVERSION.

If, after the removal of the restriction described in section 1(a), the parcel referred to in section 1(b) ceases to be used for the purposes of a veterans nursing home, the parcel shall revert to the United States.

Approved August 1, 1989.

LEGISLATIVE HISTORY—H.R. 310:

HOUSE REPORTS: No. 101-18 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-64 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
July 14, considered and passed Senate.

Public Law 101-69
101st Congress

Joint Resolution

Aug. 2, 1989
[S.J. Res. 150]

To designate August 1, 1989, as "Helsinki Human Rights Day".

Whereas August 1, 1989, will be the fourteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki accords also express the commitment of the participating States on whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and

fundamental freedoms and will in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki accords also express the commitment of the participating States to "conform the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki accords by incorporation also express the commitment of the participating States to guarantee the right of the individual to leave his own country and return to such country;

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki accords also express the commitments of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas all the participating States, including the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki accords, have made a commitment

to adhere to the principles of human rights and fundamental freedoms as embodied in the Helsinki accords;

Whereas, despite some significant improvements in some of these countries, the aforementioned Governments still have the worst performance records and have failed to fully implement their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas representatives from the signatory States convened in Vienna on November 4, 1986, to review implementation and address issues of compliance with the human rights and humanitarian provisions of the Helsinki accords;

Whereas representatives from the signatory States reached consensus on the Concluding Document of the Vienna Meeting on January 19, 1989, a document which has added clarity and precision to the obligations undertaken by the States in signing the Helsinki accords; and

Whereas by agreeing to the document, the signatory States "reaffirmed their commitment to the CSCE process and underlined its essential role in increasing confidence, in opening up new ways for cooperation, in promoting respect for human rights and fundamental freedoms and thus strengthening international security": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1989, the fourteenth anniversary of the signing of the Final Act on the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory nation which may be in violation (in particular, the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania);

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is an essential means of promoting the full implementation of the human rights and humanitarian provisions of the Helsinki accords.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Approved August 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 150:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 31, considered and passed House.

Public Law 101-70
101st Congress

An Act

Aug. 3, 1989
[H.R. 999]

To reauthorize the Advisory Council on Historic Preservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. section 470 et seq.), is further amended as follows: Section 212(a) is amended by deleting the last sentence and inserting in lieu thereof the sentence "There are authorized to be appropriated not to exceed $2,500,000 in each fiscal year 1990 through 1994.".

16 USC 470t.

Approved August 3, 1989.

LEGISLATIVE HISTORY—H.R. 999:

HOUSE REPORTS: No. 101-21 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-36 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
June 2, considered and passed Senate, amended.
July 19, House concurred in Senate amendments.

Public Law 101-71
101st Congress

An Act

To provide for the Federal reimbursement of local noise abatement funds.

Aug. 4, 1989
[H.R. 968]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Noise Reduction Reimbursement Act of 1989.
Airports.
49 USC app. 2201 note.
49 USC app. 2212 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Noise Reduction Reimbursement Act of 1989".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) enhance the quality of life of citizens living in proximity to the Nation's airports;

(2) allow for the prompt implementation of the full range of recommendations of federally sponsored noise studies;

(3) provide that scarce Federal funds for noise abatement may be used with maximum efficiency; and

(4) provide that individual airports throughout the national airway system are encouraged to spend local funds on noise abatement by providing for the Federal reimbursement of such local funds.

SEC. 3. NOISE CONTROL COSTS INCLUDED AS ALLOWABLE PROJECT COSTS.

Section 513(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(a)(2)) is amended by inserting "(A)" after "(2)", by inserting "or" after "1946;", and by adding at the end thereof the following new subparagraph:

"(B) it was incurred after June 1, 1989, by the airport operator and before, on, or after the execution of the grant agreement and was incurred as part of the airport operator's federally approved airport noise compatibility program (including project formulation costs) and in accordance with all applicable statutory and administrative requirements;".

Approved August 4, 1989.

LEGISLATIVE HISTORY—H.R. 968:

HOUSE REPORTS: No. 101-51 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-72 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 16, considered and passed House.
July 24, considered and passed Senate.

Public Law 101-72
101st Congress

An Act

Aug. 7, 1989
[H.R. 3024]

To increase the statutory limit on the public debt, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

31 USC 3101 note.

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on October 31, 1989, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $70,000,000,000.

SEC. 2. CURRENT ACCRUAL VALUE OF CERTAIN OBLIGATIONS ISSUED ON A DISCOUNT BASIS.

Subsection (c) of section 3101 of title 31, United States Code, is amended to read as follows:

"(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

"(1) the original issue price of the obligation, plus

"(2) the portion of the discount on the obligation attributable to periods before the beginning of such month (as determined under the principles of section 1272(a) of the Internal Revenue Code of 1986 without regard to any exceptions contained in paragraph (2) of such section).".

Approved August 7, 1989.

LEGISLATIVE HISTORY—H.R. 3024:

HOUSE REPORTS: No. 101-188 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 1, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-73
101st Congress

An Act

To reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

Aug. 9, 1989
[H.R. 1278]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Financial Institutions Reform, Recovery, and Enforcement Act of 1989. 12 USC 1811 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989".

(b) TABLE OF CONTENTS.—

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Sec. 217. Amendments to section 13.
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Sec. 220. Reports.
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Sec. 222. Activities of savings associations.
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TITLE III—SAVINGS ASSOCIATIONS

Sec. 301. Amendment to Home Owners' Loan Act of 1933.
Sec. 302. Savings provisions.
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Sec. 305. Transitional rules regarding certain loans and effective dates.
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TITLE IV—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Sec. 401. FSLIC and Federal Home Loan Bank Board abolished.

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TITLE V—FINANCING FOR THRIFT RESOLUTIONS

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Sec. 501. Oversight Board and Resolution Trust Corporation established.

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Sec. 511. Resolution Funding Corporation established.
Sec. 512. Financing Corporation.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

Sec. 601. Acquisition of thrift institutions by bank holding companies.
Sec. 602. Technical amendments to the Bank Holding Company Act.
Sec. 603. Passive investments by companies controlling certain nonbank banks.
Sec. 604. Purchase of minority interest in undercapitalized savings associations by holding companies allowed.

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

Sec. 701. Definitions.
Sec. 702. Federal Housing Finance Board established.
Sec. 703. Termination of the Federal Home Loan Bank Board.
Sec. 704. Eligibility for membership.
Sec. 705. Repeal of provision relating to rate of interest on deposits.
Sec. 706. Capital stock.
Sec. 707. Election of Bank directors.
Sec. 708. Repeal of provisions relating to certain powers of the Federal Home Loan Bank Board.
Sec. 709. Powers and duties of Banks.
Sec. 710. Eligibility of borrowers to secure advances.
Sec. 711. Administrative expenses.
Sec. 712. Nonadministrative expenses.
Sec. 713. Federal Savings and Loan Insurance Corporation Industry Advisory Committee.
Sec. 714. Advances.
Sec. 715. Amendments relating to withdrawal from Federal Home Loan Bank membership.
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Sec. 717. Bank stock and obligations.
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Subtitle B—Federal Home Loan Mortgage Corporation

Sec. 731. Federal Home Loan Mortgage Corporation.

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Sec. 741. Repeal of limitation of obligation for administrative expenses.
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TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

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TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

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Sec. 902. Amendments to cease and desist authority with respect to restitution, restrictions on specific activities, grounds for issuance of a temporary order, and incomplete or inaccurate records.
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Sec. 931. Information required to be made available to outside auditors.
Sec. 932. Depository institution employee protection remedy.
Sec. 933. Reward for information leading to recoveries or civil penalties.

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Subtitle E—Civil Penalties for Violations Involving Financial Institutions

Sec. 951. Civil penalties.

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Sec. 961. Increased criminal penalties for certain financial institution offenses.
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TITLE X—STUDIES OF FEDERAL DEPOSIT INSURANCE, BANKING SERVICES, AND THE SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES

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TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

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TITLE XIV—TAX PROVISIONS

Sec. 1401. Early termination of special reorganization rules for financial institutions.

Sec. 1402. Tax exemption for Resolution Trust Corporation and Resolution Funding Corporation.
Sec. 1403. Annual reports on transactions in which Federal financial assistance provided.
Sec. 1404. Studies of relationship between public debt and activities of Government-sponsored enterprises.

TITLE I—PURPOSES

SEC. 101. PURPOSES.

12 USC 1811 note.

The purposes of this Act are as follows:

(1) To promote, through regulatory reform, a safe and stable system of affordable housing finance.

(2) To improve the supervision of savings associations by strengthening capital, accounting, and other supervisory standards.

(3) To curtail investments and other activities of savings associations that pose unacceptable risks to the Federal deposit insurance funds.

(4) To promote the independence of the Federal Deposit Insurance Corporation from the institutions the deposits of which it insures, by providing an independent board of directors, adequate funding, and appropriate powers.

(5) To put the Federal deposit insurance funds on a sound financial footing.

(6) To establish an Office of Thrift Supervision in the Department of the Treasury, under the general oversight of the Secretary of the Treasury.

(7) To establish a new corporation, to be known as the Resolution Trust Corporation, to contain, manage, and resolve failed savings associations.

(8) To provide funds from public and private sources to deal expeditiously with failed depository institutions.

(9) To strengthen the enforcement powers of Federal regulators of depository institutions.

(10) To strengthen the civil sanctions and criminal penalties for defrauding or otherwise damaging depository institutions and their depositors.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) AMENDMENTS TO REFERENCES TO INSURED BANK.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "insured bank", "insured banks", and "insured bank's" each place each term appears in such Act (except where any such term is preceded by "member" or "nonmember") and inserting in lieu thereof "insured depository institution", "insured depository institutions", and "insured depository institution's", respectively.

(2) EXCEPTIONS.—The terms "insured bank" and "insured banks" shall not be amended pursuant to paragraph (1) in

sections 3(h), 11(h), 11(i), 13(c)(1)(B), 13(f), and 18(d) of the Federal Deposit Insurance Act.

(b) AMENDMENTS TO REFERENCES TO FEDERAL HOME LOAN BANK BOARD.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

SEC. 202. DUTIES OF FEDERAL DEPOSIT INSURANCE CORPORATION.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended by inserting "and savings associations" after "banks".

SEC. 203. FDIC BOARD MEMBERS.

12 USC 1812.

(a) IN GENERAL.—Section 2 of the Federal Deposit Insurance Act is amended to read as follows:

"SEC. 2. MANAGEMENT.

"(a) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 5 members—

"(A) 1 of whom shall be the Comptroller of the Currency;

"(B) 1 of whom shall be the Director of the Office of Thrift Supervision; and

"(C) 3 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) POLITICAL AFFILIATION.—After February 28, 1993, not more than 3 of the members of the Board of Directors may be members of the same political party.

"(b) CHAIRPERSON AND VICE CHAIRPERSON.—

"(1) CHAIRPERSON.—1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairperson of the Board of Directors for a term of 5 years.

"(2) VICE CHAIRPERSON.—1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairperson of the Board of Directors.

"(3) ACTING CHAIRPERSON.—In the event of a vacancy in the position of Chairperson of the Board of Directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

"(c) TERMS.—

"(1) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 6 years.

"(2) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(3) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

"(d) VACANCY.—

"(1) IN GENERAL.—Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made.

"(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the Comptroller of the Currency or the office of Director of the Office of Thrift Supervision and pending the appointment of a successor, or during the absence or disability of the Comptroller or such Director, the acting Comptroller of the Currency or the acting Director of the Office of Thrift Supervision, as the case may be, shall be a member of the Board of Directors in the place of the Comptroller or Director.

"(e) INELIGIBILITY FOR OTHER OFFICES.—

"(1) POSTSERVICE RESTRICTION.—

"(A) IN GENERAL.—No member of the Board of Directors may hold any office, position, or employment in any insured depository institution or any depository institution holding company during—

"(i) the time such member is in office; and

"(ii) the 2-year period beginning on the date such member ceases to serve on the Board of Directors.

"(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—The limitation contained in subparagraph (A)(ii) shall not apply to any member who has ceased to serve on the Board of Directors after serving the full term for which such member was appointed.

"(2) RESTRICTION DURING SERVICE.—No member of the Board of Directors may—

"(A) be an officer or director of any insured depository institution, depository institution holding company, Federal Reserve bank, or Federal home loan bank; or

"(B) hold stock in any insured depository institution or depository institution holding company.

"(3) CERTIFICATION.—Upon taking office, each member of the Board of Directors shall certify under oath that such member has complied with this subsection and such certification shall be filed with the secretary of the Board of Directors.".

(b) TRANSITION PROVISION.—

12 USC 1812 note.

(1) CHAIRPERSON.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 may continue to serve as the Chairperson until the end of the term to which such Chairman was appointed.

(2) MEMBERS.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the appointed member of the Board of Directors of the Federal Deposit Insurance Corporation on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 who is not the Chairman shall continue to serve in office until the earlier of—

(A) the end of the term to which such member was appointed; or

(B) February 28, 1993,

except that such member may continue to serve after the end of such term until a successor has been appointed and qualified.

(3) APPOINTMENTS BEFORE MARCH 1, 1993.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the term of any member appointed to the Board of Directors of the Federal Deposit Insurance Corporation before February 28,

1993 (including the term of any Chairperson), shall end on such date.

SEC. 204. DEFINITIONS.

(a) DEFINITIONS OF BANK AND RELATED TERMS.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended to read as follows:

"(a) DEFINITIONS OF BANK AND RELATED TERMS.—

"(1) BANK.—The term 'bank'—

"(A) means any national bank, State bank, and District bank, and any Federal branch and insured branch;

"(B) includes any former savings association that—

"(i) has converted from a savings association charter; and

"(ii) is a Savings Association Insurance Fund member.

"(2) STATE BANK.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), or other banking institution which—

"(A) is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

"(B) is incorporated under the laws of any State or which is operating under the Code of Law for the District of Columbia (except a national bank),

including any cooperative bank or other unincorporated bank the deposits of which were insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(4) DISTRICT BANK.—The term 'District bank' means any State bank operating under the Code of Law of the District of Columbia.

(b) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERMS.—Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) is amended to read as follows:

"(b) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERMS.—

"(1) SAVINGS ASSOCIATION.—The term 'savings association' means—

"(A) any Federal savings association;

"(B) any State savings association; and

"(C) any corporation (other than a bank) that the Board of Directors and the Director of the Office of Thrift Supervision jointly determine to be operating in substantially the same manner as a savings association.

"(2) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means any Federal savings association or Federal savings bank which is chartered under section 5 of the Home Owners' Loan Act.

"(3) STATE SAVINGS ASSOCIATION.—The term 'State savings association' means—

"(A) any building and loan association, savings and loan association, or homestead association; or

"(B) any cooperative bank (other than a cooperative bank which is a State bank as defined in subsection (a)(2)),

which is organized and operating according to the laws of the State (as defined in subsection (a)(3)) in which it is chartered or organized.".

(c) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) is amended to read as follows:

"(c) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—

"(1) DEPOSITORY INSTITUTION.—The term 'depository institution' means any bank or savings association.

"(2) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means any bank or savings association the deposits of which are insured by the Corporation pursuant to this Act.

"(3) INSTITUTIONS INCLUDED FOR CERTAIN PURPOSES.—The term 'insured depository institution' includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purposes of section 8 of this Act.

"(4) FEDERAL DEPOSITORY INSTITUTION.—The term 'Federal depository institution' means any national bank, any Federal savings association, and any Federal branch.

"(5) STATE DEPOSITORY INSTITUTION.—The term 'State depository institution' means any State bank, any State savings association, and any insured branch which is not a Federal branch.".

(d) DEFINITIONS RELATING TO MEMBER BANKS.—Section 3(d) of the Federal Deposit Insurance (12 U.S.C. 1813(d)) is amended to read as follows:

"(d) DEFINITIONS RELATING TO MEMBER BANKS.—

"(1) NATIONAL MEMBER BANK.—The term 'national member bank' means any national bank which is a member of the Federal Reserve System.

"(2) STATE MEMBER BANK.—The term 'State member bank' means any State bank which is a member of the Federal Reserve System.".

(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—Section 3(e) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)) is amended to read as follows:

"(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—

"(1) NATIONAL NONMEMBER BANK.—The term 'national nonmember bank' means any national bank which—

"(A) is located in any territory of the United States, Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands; and

"(B) is not a member of the Federal Reserve System.

"(2) STATE NONMEMBER BANK.—The term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.".

(f) ADDITIONAL AMENDMENTS TO DEFINITIONS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (j), by inserting "or savings association" after "of a bank";

(2) in subsection (l)—

(A) by inserting "or savings association" after "a bank", "the bank", "another bank", "receiving bank", and "such bank" each place such terms appear;

(B) by inserting "or savings association's" after the word "bank's" each place such term appears;

(C) in paragraph (5), by inserting ", Director of the Office of Thrift Supervision," after "Comptroller of the Currency"; and

(D) in paragraph (5)(A), by striking out "and the Virgin Islands" and inserting in lieu thereof "the Virgin Islands, and the Northern Mariana Islands";

(3) in subsection (m)—

(A) in paragraph (1)—

(i) by striking out "the bank" and inserting in lieu thereof "the depository institution"; and

(ii) by inserting "of the Northern Mariana Islands," after "Virgin Islands,"; and

(B) in paragraph (2), by striking out "ther" and inserting in lieu thereof "term";

(4) by striking out subsection (q) and inserting in lieu thereof the following:

"(q) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' means—

"(1) the Comptroller of the Currency, in the case of any national banking association, any District bank, or any Federal branch or agency of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System, in the case of—

"(A) any State member insured bank (except a District bank),

"(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) any foreign bank which does not operate an insured branch,

"(D) any agency or commercial lending company other than a Federal agency,

"(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Depository Institutions Supervisory Act, and

"(F) any bank holding company and any subsidiary of a bank holding company (other than a bank);

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank), or a foreign bank having an insured branch; and

"(4) the Director of the Office of Thrift Supervision in the case of any savings association or any savings and loan holding company.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution."; and

(5) by striking out subsection (t) and inserting in lieu thereof the following new subsection:

"(t) INCLUDES, INCLUDING.—

"(1) IN GENERAL.—The terms 'includes' and 'including' shall not be construed more restrictively than the ordinary usage of such terms so as to exclude any other thing not referred to or described.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as creating any inference that the term 'includes' or 'including' in any other provision of Federal law may be deemed to exclude any other thing not referred to or described.";

(6) by adding at the end thereof the following new subsections:

"(u) INSTITUTION-AFFILIATED PARTY.—The term 'institution-affiliated party' means—

"(1) any director, officer, employee, or controlling stockholder (other than a bank holding company) of, or agent for, an insured depository institution;

"(2) any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j);

"(3) any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the appropriate Federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution; and

"(4) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured depository institution.

"(v) VIOLATION.—The term 'violation' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(w) DEFINITIONS RELATING TO HOLDING COMPANIES.—

"(1) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term 'depository institution holding company' means a bank holding company or a savings and loan holding company.

"(2) BANK HOLDING COMPANY.—The term 'bank holding company' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(3) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' has the meaning given to such term in section 10 of the Home Owners' Loan Act.

"(4) SUBSIDIARY.—The term 'subsidiary'—

"(A) means any company which is owned or controlled directly or indirectly by another company; and

"(B) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(5) CONTROL.—The term 'control' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(6) AFFILIATE.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.

"(x) DEFINITIONS RELATING TO DEFAULT.—

"(1) DEFAULT.—The term 'default' means, with respect to an insured depository institution, any adjudication or other official determination by any court of competent jurisdiction, the appropriate Federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for an insured depository institution or, in the case of a foreign bank having an insured branch, for such branch.

"(2) IN DANGER OF DEFAULT.—The term 'in danger of default' means an insured depository institution with respect to which (or in the case of a foreign bank having an insured branch, with respect to such insured branch) the appropriate Federal banking agency or State chartering authority has advised the Corporation (or, if the appropriate Federal banking agency is the Corporation, the Corporation has determined) that—

"(A) in the opinion of such agency or authority—

"(i) the depository institution or insured branch is not likely to be able to meet the demands of the institution's or branch's depositors or pay the institution's or branch's obligations in the normal course of business; and

"(ii) there is no reasonable prospect that the depository institution or insured branch will be able to meet such demands or pay such obligations without Federal assistance; or

"(B) in the opinion of such agency or authority—

"(i) the depository institution or insured branch has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

"(ii) there is no reasonable prospect that the capital of the depository institution or insured branch will be replenished without Federal assistance.".

SEC. 205. INSURED SAVINGS ASSOCIATIONS.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) in subsection (a)—

(A) by striking out "(a) Every bank" and inserting in lieu thereof the following:

"(a) CONTINUATION OF INSURANCE.—

"(1) BANKS.—Each bank"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SAVINGS ASSOCIATIONS.—Each savings association the accounts of which were insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be, without application or approval, an insured depository institution.";

(2) in subsection (b)—

(A) by inserting after the 1st sentence the following new sentences: "Any application or notice for membership or to commence or resume business shall be promptly provided by the appropriate Federal banking agency to the Corporation and the Corporation shall have a reasonable period of time to provide comments on such application or notice. Any comments submitted by the Corporation to the appro-

priate Federal banking agency shall be considered by such agency.";

(B) by striking out the penultimate and the last sentences; and

(C) by striking out "(b) Every national bank" and inserting in lieu thereof "(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank"; and

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c) CONTINUATION OF INSURANCE AFTER CONVERSION.—Subject to section 5(d)—

"(1) any State depository institution which results from the conversion of any insured Federal depository institution; and

"(2) any Federal depository institution which results from the conversion of any insured State depository institution,

shall continue as an insured depository institution.

"(d) CONTINUATION OF INSURANCE AFTER MERGER OR CONSOLIDATION.—Any State depository institution or any Federal depository institution which results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue as an insured depository institution.".

SEC. 206. APPLICATION PROCESS; INSURANCE FEES.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(1) by striking out "(a) Subject to the provisions of this Act, any" and inserting in lieu thereof the following:

"(a) APPLICATION FOR INSURANCE.—

"(1) NATIONAL AND STATE NONMEMBER BANKS; STATE SAVINGS ASSOCIATIONS.—Any";

(2) in the 1st sentence of subsection (a)(1) (as so redesignated by paragraph (1) of this subsection), by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,"; and

(3) in the 2nd sentence of subsection (a)(1) (as so redesignated by paragraph (1) of this subsection)—

(A) by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,";

(B) by striking out the comma after "such bank" and inserting in lieu thereof "or savings association,"; and

(C) by inserting "or savings association, and, in the case of an application by a State savings association, the Corporation shall notify the Director of the Office of Thrift Supervision of the Corporation's approval of such application" before the period at the end;

(4) by adding at the end of subsection (a) the following new paragraphs:

"(2) FEDERAL SAVINGS ASSOCIATIONS.—Any Federal savings association shall become an insured depository institution upon—

"(A) application to the Corporation; and

"(B) receipt by the Corporation of a certificate issued to the Corporation by the Director which meets the requirements of paragraph (4),

unless insurance is denied by the Board of Directors.

"(3) INTERIM FEDERAL SAVINGS ASSOCIATIONS.—In the case of any interim Federal savings association which is chartered by the Director of the Office of Thrift Supervision and will not open for business, such association shall be an insured depository institution upon the issuance of such association's charter by the Director.

"(4) CERTIFICATE REQUIREMENTS.—Any certificate issued to the Corporation under paragraph (2) shall state that the Federal savings association is authorized to transact business as a savings association and that consideration has been given to the factors enumerated in section 6.

"(5) REVIEW REQUIREMENTS.—In reviewing any certificate and application referred to in paragraph (2), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6 in determining whether to deny insurance.

"(6) NOTICE OF DENIAL OF APPLICATION.—If the Board of Directors, after giving due deference to the determination of the Director of the Office of Thrift Supervision with respect to such factors, does not concur in the determination of the Director, the Board of Directors shall promptly notify the Director that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6, and no insurance shall be granted.

"(7) VOTING REQUIREMENTS.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of Directors and any such determination may be made only upon a vote of ¾ of all members of the Board of Directors (excluding the Director of the Office of Thrift Supervision).";

(5) in subsection (b)(4), by inserting "and fitness" after character;

(6) in subsection (b)—

(A) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund;"; and

(7) by adding at the end thereof the following new subsections:

"(d) INSURANCE FEES.—

"(1) UNINSURED INSTITUTIONS.—

"(A) IN GENERAL.—Any institution that becomes insured by the Corporation, and any noninsured branch that becomes insured by the Corporation, shall pay the Corporation any fee which the Corporation may by regulation prescribe, after giving due consideration to the need to establish and maintain reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7.

"(B) FEE CREDITED TO APPROPRIATE FUND.—The fee paid by the depository institution shall be credited to the Bank Insurance Fund if the depository institution becomes a Bank Insurance Fund member, and to the Savings Association Insurance Fund if the depository institution becomes a Savings Association Insurance Fund member.

"(C) EXCEPTION FOR CERTAIN DEPOSITORY INSTITUTIONS.—Any depository institution that becomes an insured deposi-

tory institution by operation of section 4(a) shall not pay any fee.

"(2) CONVERSIONS.—

"(A) IN GENERAL.—

"(i) PRIOR APPROVAL REQUIRED.—No insured depository institution may participate in a conversion transaction without the prior approval of the Corporation.

"(ii) 5-YEAR MORATORIUM ON CONVERSIONS.—Except as provided in subparagraph (C), the Corporation may not approve any conversion transaction before the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(B) CONVERSION DEFINED.—For purposes of this paragraph, the term 'conversion transaction' means—

"(i) the change of status of an insured depository institution from a Bank Insurance Fund member to a Savings Association Insurance Fund member or from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

"(ii) the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member;

"(iii) the assumption of any liability by—

"(I) any Bank Insurance Fund member to pay any deposits of a Savings Association Insurance Fund member; or

"(II) any Savings Association Insurance Fund member to pay any deposits of a Bank Insurance Fund member;

"(iv) the transfer of assets of—

"(I) any Bank Insurance Fund member to any Savings Association Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Bank Insurance Fund member; or

"(II) any Savings Association Insurance Fund member to any Bank Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Savings Association Insurance Fund member.

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the total deposits of each depository institution participating in the conversion transaction;

"(ii) the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default, and the Corporation determines that the estimated financial benefits to the Savings Association Insurance Fund or Resolution Trust Corporation equal or exceed the Corporation's estimate of loss of assessment income to such insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A), and the

Resolution Trust Corporation concurs in the Corporation's determination; or

"(iii) the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the Corporation determines that the estimated financial benefits to the Bank Insurance Fund equal or exceed the Corporation's estimate of the loss of assessment income to the insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A).

"(D) CERTAIN TRANSFERS DEEMED TO AFFECT INSUBSTANTIAL PORTION OF TOTAL DEPOSITS.—For purposes of subparagraph (C)(i), any conversion transaction shall be deemed to affect an insubstantial portion of the total deposits of an insured depository institution, to the extent the aggregate amount of the total deposits transferred in such transaction and in all conversion transactions occurring after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 does not exceed 35 percent of the lesser of—

"(i) the amount which is equal to the sum of—

"(I) the total deposits of such insured depository institution on May 1, 1989; and

"(II) the total amount of net interest credited to the depository institution's deposits during the period beginning on May 1, 1989, and ending on the date of the transfer of deposits in connection with such transaction; or

"(ii) the amount which is equal to the total deposits of such insured depository institution on the date of the transfer of deposits in connection with such transaction.

"(E) EXIT AND ENTRANCE FEES.—Each insured depository institution participating in a conversion transaction shall pay—

"(i) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Savings Association Insurance Fund member, an exit fee (in an amount to be determined and assessed in accordance with subparagraph (F)) which—

"(I) shall be deposited in the Savings Association Insurance Fund; or

"(II) shall be paid to the Financing Corporation, if the Secretary of the Treasury determines that the Financing Corporation has exhausted all other sources of funding for interest payments on the obligations of the Financing Corporation and orders that such fees be paid to the Financing Corporation;

"(ii) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Bank Insurance Fund member, an exit fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)) which shall be deposited in the Bank Insurance Fund; and

"(iii) an entrance fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)), except that—

"(I) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Bank Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Bank Insurance Fund, and shall be paid to the Bank Insurance Fund; and

"(II) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Savings Association Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Savings Association Insurance Fund, and shall be paid to the Savings Association Insurance Fund.

"(F) ASSESSMENT OF EXIT AND ENTRANCE FEES.—

"(i) DETERMINATION OF AMOUNT OF EXIT FEES.—

"(I) CONVERSIONS BEFORE JANUARY 1, 1997.—In the case of any exit fee assessed under subparagraph (E)(i) for any conversion transaction consummated before January 1, 1997, the amount of such fee shall be determined jointly by the Corporation and the Secretary of the Treasury.

"(II) ASSESSMENTS AFTER DECEMBER, 31, 1996.—In the case of any exit fee assessed under subparagraph (E)(i) for any conversion transaction consummated after December 31, 1996, the amount of such fee shall be determined by the Corporation.

"(ii) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit or entrance fee under subparagraph (E). Regulations.

"(G) CHARTER CONVERSION OF SAIF MEMBERS.—This subsection shall not be construed as prohibiting any savings association which is a Savings Association Insurance Fund member from converting to a bank charter during the period described in subparagraph (A)(ii) if the resulting bank remains a Savings Association Insurance Fund member.

"(3) OPTIONAL CONVERSION THROUGH MERGER.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(A), any bank holding company that controls any savings association may merge or consolidate the assets and liabilities of such savings association with, or transfer such assets and liabilities to, any subsidiary bank which is a Bank Insurance Fund member with the approval of the appropriate Federal banking agency and the Board of Governors of the Federal Reserve System.

"(B) ASSESSMENTS BY SAIF ON DEPOSITS ATTRIBUTABLE TO FORMER SAVINGS ASSOCIATION.—That portion of the average assessment base of any subsidiary bank referred to in subparagraph (A) for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction described in subparagraph (A)) shall—

"(i) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(ii) shall not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(iii) shall be treated as deposits which are insured by the Savings Association Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account by any bank subsidiary referred to in subparagraph (A) for purposes of determining the amount of the assessment under subparagraph (B)(i) for any semiannual period is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by such bank subsidiary in connection with any transaction described in subparagraph (A) (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the greater of—

"(I) an annual rate of 7 percent; or

"(II) the annual rate of growth of deposits of such subsidiary bank minus the amount of any deposits acquired through the acquisition, in whole or in part, of a Bank Insurance Fund member during such semiannual period.

"(D) DEPOSIT OF ASSESSMENT.—The amount of the assessment referred to in subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund.

"(E) CONDITIONS FOR FEDERAL RESERVE BOARD APPROVAL.—The Board of Governors of the Federal Reserve System may not approve any application by any bank holding company to engage in any transaction described in subparagraph (A) unless such Board determines that—

"(i) the amount which is equal to the aggregate amount of the total assets of all depository institution subsidiaries of such bank holding company is not less than the amount which is equal to 200 percent of the total assets of the savings association (at the time of the proposed transaction);

"(ii) the bank holding company and all bank subsidiaries of such holding company will meet all applicable capital standards upon consummation of the proposed transaction;

"(iii) the transaction is not in substance the acquisition of any Bank Insurance Fund member bank by any Savings Association Insurance Fund member;

"(iv) in the case of any transaction which occurs—

"(I) during the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the savings association had tangible capital of less than 4 percent during the preceding quarter; and

"(II) during the 1-year period beginning after the end of the 1-year period referred to in subclause (I), the savings association had tangible capital of less than 5 percent during the preceding quarter; and

"(v) the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the savings association were a State bank which the bank holding company was applying to acquire.

"(F) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any subsidiary bank referred to in subparagraph (A) is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such bank subsidiary (other than the adjusted attributable deposit amount) which is insured by the Bank Insurance Fund and the adjusted attributable deposit amount which is insured by the Savings Association Insurance Fund pursuant to subparagraph (B)(iii).

"(G) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by the bank described in subparagraph (A) to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) such bank pays the amount of any exit and entrance fee assessed by the Corporation under paragraph (2)(E) with respect to such transaction.

"(e) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—

"(A) LIABILITY ESTABLISHED.—Any insured depository institution shall be liable for any loss incurred by the Corporation, or any loss which the Corporation reasonably anticipates incurring, after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 in connection with—

"(i) the default of a commonly controlled insured depository institution; or

"(ii) any assistance provided by the Corporation to any commonly controlled insured depository institution in danger of default.

"(B) PAYMENT UPON NOTICE.—An insured depository institution shall pay the amount of any liability to the Corporation under subparagraph (A) upon receipt of written notice by the Corporation in accordance with this subsection.

"(C) NOTICE REQUIRED TO BE PROVIDED WITHIN 2 YEARS OF LOSS.—No insured depository institution shall be liable to

the Corporation under subparagraph (A) if written notice with respect to such liability is not received by such institution before the end of the 2-year period beginning on the date the Corporation incurred the loss.

"(2) AMOUNT OF COMPENSATION; PROCEDURES.—

"(A) USE OF ESTIMATES.—When an insured depository institution is in default or requires assistance to prevent default, the Corporation shall—

"(i) in good faith, estimate the amount of the loss the Corporation will incur from such default or assistance;

"(ii) if, with respect to such insured depository institution, there is more than 1 commonly controlled insured depository institution, estimate the amount of each such commonly controlled depository institution's share of such liability; and

"(iii) advise each commonly controlled depository institution of the Corporation's estimate of the amount of such institution's liability for such losses.

"(B) PROCEDURES; IMMEDIATE PAYMENT.—The Corporation, after consultation with the appropriate Federal banking agency and the appropriate State chartering agency, shall—

"(i) on a case-by-case basis, establish the procedures and schedule under which any insured depository institution shall reimburse the Corporation for such institution's liability under paragraph (1) in connection with any commonly controlled insured depository institution; or

"(ii) require any insured depository institution to make immediate payment of the amount of such institution's liability under paragraph (1) in connection with any commonly controlled insured depository institution.

"(C) PRIORITY.—The liability of any insured depository institution under this subsection shall have priority with respect to other obligations and liabilities as follows:

"(i) SUPERIORITY.—The liability shall be superior to the following obligations and liabilities of the depository institution:

"(I) Any obligation to shareholders arising as a result of their status as shareholders (including any depository institution holding company or any shareholder or creditor of such company).

"(II) Any obligation or liability owed to any affiliate of the depository institution (including any other insured depository institution), other than any secured obligation which was secured as of May 1, 1989.

"(ii) SUBORDINATION.—The liability shall be subordinate in right and payment to the following obligations and liabilities of the depository institution:

"(I) Any deposit liability (which is not a liability described in clause (i)(II)).

"(II) Any secured obligation, other than any obligation owed to any affiliate of the depository institution (including any other insured depository institution) which was secured after May 1, 1989.

"(III) Any other general or senior liability (which is not a liability described in clause (i)).

"(IV) Any obligation subordinated to depositors or other general creditors (which is not an obligation described in clause (i)).

"(D) ADJUSTMENT OF ESTIMATED PAYMENT.—

"(i) OVERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled depository institutions is greater than the actual loss incurred by the Corporation, the Corporation shall reimburse each such commonly controlled depository institution its pro rata share of any overpayment.

"(ii) UNDERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled depository institutions is less than the actual loss incurred by the Corporation, the Corporation shall redetermine in its discretion the liability of each such commonly controlled depository institution to the Corporation and shall require each such commonly controlled depository institution to make payment of any additional liability to the Corporation.

"(3) REVIEW.—

"(A) JUDICIAL.—Actions of the Corporation shall be reviewable pursuant to chapter 7 of title 5, United States Code.

"(B) ADMINISTRATIVE.—The Corporation shall prescribe regulations and establish administrative procedures which provide for a hearing on the record for the review of— Regulations.

"(i) the amount of any loss incurred by the Corporation in connection with any insured depository institution;

"(ii) the liability of individual commonly controlled depository institutions for the amount of such loss; and

"(iii) the schedule of payments to be made by such commonly controlled depository institutions.

"(4) LIMITATION ON RIGHTS OF PRIVATE PARTIES.—To the extent the exercise of any right or power of any person would impair the ability of any insured depository institution to perform such institution's obligations under this subsection—

"(i) the obligations of such insured depository institution shall supersede such right or power; and

"(ii) no court may give effect to such right or power with respect to such insured depository institution.

"(5) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Corporation, in its discretion, may exempt any insured depository institution from the provisions of this subsection if the Corporation determines that such exemption is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

"(B) CONDITION.—During the period any exemption granted to any insured depository institution under subparagraph (A) or (C) is in effect, such insured depository institution and all other insured depository institution affiliates of such depository institution shall comply fully

with the restrictions of sections 23A and 23B of the Federal Reserve Act without regard to section 23A(d)(1).

"(C) LIMITED PARTNERSHIPS.—

"(i) IN GENERAL.—The Corporation may, in its discretion, exempt any limited partnership and any affiliate of any limited partnership (other than any insured depository institution which is a majority owned subsidiary of such partnership) from the provisions of this subsection if such limited partnership or affiliate has filed a registration statement with the Securities and Exchange Commission on or before April 10, 1989, indicating that as of the date of such filing such partnership intended to acquire 1 or more insured depository institutions.

"(ii) REVIEW AND NOTICE.—Within 10 business days after the date of submission of any request for an exemption under this subparagraph together with such information as shall be reasonably requested by the Corporation, the Corporation shall make a determination on the request and shall so advise the applicant.

"(6) 5-YEAR TRANSITION RULE.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(A) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided by the Corporation or any loss incurred by the Corporation as a result of the default of a Bank Insurance Fund member which was acquired by such Savings Association Insurance Fund member or any affiliate of such member before the date of the enactment of such Act; and

"(B) no Bank Insurance Fund member shall have such liability with respect to assistance provided by or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member which was acquired by such Bank Insurance Fund member or any affiliate of such member before the date of the enactment of such Act.

"(7) EXCLUSION FOR INSTITUTIONS ACQUIRED IN DEBT COLLECTIONS.—Any depository institution shall not be treated as commonly controlled, for purposes of this subsection, during the 5-year period beginning on the date of an acquisition described in subparagraph (A) or such longer period as the Corporation may determine after written application by the acquirer, if—

"(A) 1 depository institution controls another by virtue of ownership of voting shares acquired in securing or collecting a debt previously contracted in good faith; and

"(B) during the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending upon the expiration of the exclusion, the controlling bank and all other insured depository institution affiliates of such controlling bank comply fully with the restrictions of sections 23A and 23B of the Federal Reserve Act, without regard to section 23A(d)(1) of such Act, in transactions with the acquired insured depository institution.

"(8) EXCEPTION FOR CERTAIN FSLIC ASSISTED INSTITUTIONS.—No depository institution shall have any liability to the Corporation under this subsection as the result of the default of, or assistance provided with respect to, an insured depository institution which is an affiliate of such depository institution if—

"(A) such affiliate was receiving cash payments from the Federal Savings and Loan Insurance Corporation under an assistance agreement or note entered into before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(B) the Federal Savings and Loan Insurance Corporation, or such other entity which has succeeded to the payment obligations of such Corporation with respect to such assistance agreement or note, is unable to continue such payments; and

"(C) such affiliate—

"(i) is in default or in need of assistance solely as a result of the failure to meet the payment obligations referred to in subparagraph (B); and

"(ii) is not otherwise in breach of the terms of any assistance agreement or note which would authorize the Federal Savings and Loan Insurance Corporation or such other successor entity, pursuant to the terms of such assistance agreement or note, to refuse to make such payments.

"(9) COMMONLY CONTROLLED DEFINED.—For purposes of this subsection, depository institutions are commonly controlled if—

"(A) such institutions are controlled by the same depository institution holding company (including any company required to file reports pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956); or

"(B) 1 depository institution is controlled by another depository institution.".

(b) NEWLY INSURED THRIFT PROVISION.—Any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act, as added by section 204(c) of this Act)— 12 USC 1815 note.

(1) which was an insured institution (as defined in section 401(a) of the National Housing Act, as in effect before the date of the enactment of this Act) on the day before the date of the enactment of this Act;

(2) the board of directors of which determined, before April 1, 1987, to terminate such association's status as an insured institution (as so defined) as evidenced in sworn minutes of the board of directors meeting held before such date;

(3) had insured deposits of less than $11,000,000 on April 1, 1987; and

(4) was an insured institution (as so defined) for less than 1 year as of April 1, 1987,

may cease to be a Savings Association Insurance Fund member and become a Bank Insurance Fund member at any time during the 2-year period beginning on the date of the enactment of this Act without the approval of the Federal Deposit Insurance Corporation under section 5(d)(2) of the Federal Deposit Insurance Act (as added by subsection (a) of this section) and without incurring any liability for any exit or entrance fee imposed under such section 5(d)(2).

SEC. 207. INSURABILITY FACTORS.

Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended to read as follows:

"SEC. 6. FACTORS TO BE CONSIDERED.

"The factors that are required, under section 4, to be considered in connection with, and enumerated in, any certificate issued pursuant to section 4 and that are required, under section 5, to be considered by the Board of Directors in connection with any determination by such Board pursuant to section 5 are the following:

"(1) The financial history and condition of the depository institution.

"(2) The adequacy of the depository institution's capital structure.

"(3) The future earnings prospects of the depository institution.

"(4) The general character and fitness of the management of the depository institution.

"(5) The risk presented by such depository institution to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(6) The convenience and needs of the community to be served by such depository institution.

"(7) Whether the depository institution's corporate powers are consistent with the purposes of this Act.".

SEC. 208. ASSESSMENTS.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (a)(2)—

(A) by inserting ", the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency" each place such term appears (except after "Comptroller of the Currency,");

(B) by inserting "the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency,";

(C) by striking out "either" in the 1st sentence and inserting in lieu thereof "any";

(D) in the last sentence of subparagraph (A), by inserting "or savings associations" after "banks";

(E) by striking out "State nonmember bank (except a District bank)" and inserting in lieu thereof "depository institution"; and

(F) by striking out subparagraph (B) and inserting the following:

"(B) ADDITIONAL REPORTS.—The Board of Directors may from time to time require any insured depository institution to file such additional reports as the Corporation, after agreement with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate, may deem advisable for insurance purposes.";

(2) in subsection (a)(3)—

(A) by striking out "Each insured State nonmember bank" and all that follows through "four reports" and inserting the following: "Each insured depository institution shall make to the appropriate Federal banking agency 4 reports";

(B) by striking out "bank" each place such term appears in the 2nd, 5th, and 6th sentences and inserting in lieu thereof "depository institution";

(C) by striking out "insured national, District" and all that follows through "member bank" in the 7th sentence and inserting in lieu thereof "insured depository institution"; and

(D) by inserting "or savings associations" after "banks" in the last sentence;

(3) in subsection (a)(4), by striking out "bank", "bank's", and "banks" each place such terms appear (except in "foreign bank") and inserting in lieu thereof "depository institution", "depository institution's", and "depository institutions", respectively;

(4) by striking out paragraphs (1) and (2) of subsection (b) and inserting the following:

"(1) ASSESSMENT RATES.—

"(A) ANNUAL ASSESSMENT RATES PRESCRIBED.—

"(i) The Corporation shall set assessment rates for insured depository institutions annually.

"(ii) The Corporation shall fix the annual assessment rate of Bank Insurance Fund members independently from the annual assessment rate for Savings Association Insurance Fund members.

"(iii) The Corporation shall, by September 30 of each year, announce the assessment rates for the succeeding calendar year.

"(B) DESIGNATED RESERVE RATIO DEFINED.—

"(i) The designated reserve ratio of the Bank Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits, not exceeding 1.50 percent, as the Board of Directors determines for that year to be justified by circumstances that raise a significant risk of substantial future losses to the Bank Insurance Fund.

"(ii) The designated reserve ratio of the Savings Association Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits, not exceeding 1.50 percent, as the Board of Directors determines for that year to be justified by circumstances that raise a significant risk of substantial future losses to the Savings Association Insurance Fund.

"(iii) The Board of Directors shall—

"(I) maintain reserves in the Bank Insurance Fund received pursuant to clause (i)(II) as Supplemental Reserves in the Bank Insurance Fund;

"(II) allocate each calendar quarter to an Earnings Participation Account in the Bank Insurance Securities.

Fund the investment income earned by the Bank Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Bank Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Bank Insurance Fund members if and to the extent the Corporation determines that such Supplemental Reserves are not needed to satisfy the projected designated reserve ratio for the next succeeding calendar year.

"(iv) The Board of Directors shall—

"(I) maintain reserves in the Savings Association Insurance Fund received pursuant to clause (ii)(II) as Supplemental Reserves in the Savings Association Insurance Fund;

Securities.

"(II) allocate each calendar quarter to an Earnings Participation Account in the Savings Association Insurance Fund the investment income earned by the Savings Association Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Savings Association Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Savings Association Insurance Fund members if and to the extent the Corporation determines that such Supplemental Reserves are not needed to satisfy the projected designated reserve ratio for the next succeeding calendar year.

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—The annual assessment rate for Bank Insurance Fund members shall be—

"(i) until December 31, 1989, 1/12 of 1 percent;

"(ii) from January 1, 1990, through December 31, 1990, 0.12 percent;

"(iii) on and after January 1, 1991, 0.15 percent;

"(iv) on January 1 of a calendar year in which the reserve ratio of the Bank Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected operating expenses, case resolution expenditures, and investment income of the Bank Insurance Fund, and the impact on insured bank earnings and capitalization, except that—

"(I) from the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 until the earlier of January 1, 1995, or January 1 of the calendar year in which the Bank Insurance Fund reserve ratio is expected to first attain the designated reserve ratio, the rate shall be as specified in clauses (i), (ii), and (iii) of

this subparagraph so long as the Bank Insurance Fund reserve ratio is increasing on a calendar year basis;

"(II) the rate shall not exceed 0.325 percent; and

"(III) the increase in the rate in any 1 year shall not exceed 0.075 percent; and

"(v) sufficient to ensure that for each member in each year the assessment shall not be less than $1,000.

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—The annual assessment rate for Savings Association Insurance Fund members shall be—

"(i) until December 31, 1990, 0.208 percent;

"(ii) from January 1, 1991, through December 31, 1993, 0.23 percent;

"(iii) from January 1, 1994, through December 31, 1997, 0.18 percent;

"(iv) on and after January 1, 1998, 0.15 percent;

"(v) on January 1 of a calendar year in which the reserve ratio of the Savings Association Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected expenses and income of the Savings Association Insurance Fund, and the effect on insured savings association earnings and capitalization, except that—

"(I) from the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through December 31, 1994, the rate shall be as specified in clauses (i), (ii), and (iii) above;

"(II) the rate shall not exceed 0.325 percent; and

"(III) the increase in the rate in any one year shall not exceed 0.075 percent; and

"(vi) sufficient to ensure that for each member in each year the assessment shall not be less than $1,000.

"(E) FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation and the Funding Corporation under sections 21 and 21B, respectively, of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(F) SPECIAL RULE TO ALLOW CONTINUING ASSESSMENTS BY THE FINANCING CORPORATION AND THE FUNDING CORPORATION DURING PREMIUM YEAR ADJUSTMENTS.—In order to ensure that the Financing Corporation and the Resolution Funding Corporation obtain sufficient funds for interest payments on obligations of such corporations, the Corporation, in coordination with the Financing Corporation and the Secretary of the Treasury, may prescribe such regulations as may be necessary to allow the Financing Corporation and the Resolution Funding Corporation to impose assessments against Savings Association Insurance

Fund members pursuant to sections 21 and 21B, respectively, of the Federal Home Loan Bank Act during the period required to change such members' premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) to a calendar year basis.

"(2) ASSESSMENT PROCEDURES.—

"(A) SEMIANNUAL ASSESSMENTS.—Except as provided in subsection (c)(2)—

"(i) the semiannual assessment due from any Bank Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Bank Insurance Fund member; and

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period; and

"(ii) the semiannual assessment due from any Savings Association Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Savings Association Insurance Fund member; and

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period.

"(B) DEFINITION.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.";

(5) by amending subsection (d) to read as follows:

"(d) ASSESSMENT CREDITS.—

"(1) IN GENERAL.—

"(A) By September 30 of each calendar year, the Corporation shall prescribe and publish the aggregate amount to be credited to insured depository institutions in the succeeding calendar year.

"(B) Each insured depository institution shall be notified by the Corporation of the percentage by which the assessment rate should be reduced in computing its net premium.

"(C) Any outstanding obligations owed to the Corporation by an individual insured depository institution shall be deducted from any assessment credit to be credited to such depository institution.

"(2) ASSESSMENT CREDIT FOR INSURED BANKS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Bank Insurance Fund members if the Board of Directors determines that the Bank Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio in the coming year after taking into consideration such Fund's expected expenses and income.

"(B) CREDIT AUTHORIZED.—If the Board of Directors determines, after taking into consideration the Bank Insurance Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income,

that the Bank Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Bank Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Bank Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Bank Insurance Fund members in such succeeding year.

"(3) ASSESSMENT CREDIT FOR INSURED SAVINGS ASSOCIATIONS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Savings Association Insurance Fund members if the Board of Directors determines that the Savings Association Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio in the coming year after taking into consideration such Fund's expected expenses and income.

"(B) CREDIT AUTHORIZED.—If the Board of Directors determines, after taking into consideration the Savings Association Insurance Fund's expected expenses and income, that the Savings Association Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Savings Association Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Savings Association Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Savings Association Insurance Fund members in such succeeding year.

"(4) NET ASSESSMENT INCOME DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net assessment income' means—

"(i) with respect to the Bank Insurance Fund, the Bank Insurance Fund net assessment income (as defined in subparagraph (B)); and

"(ii) with respect to the Savings Association Insurance Fund, the Savings Association Insurance Fund net assessment income (as defined in subparagraph (C)).

"(B) BANK INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Bank Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such Fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Bank Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For the purposes of this subparagraph, the operating costs and

expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Bank Insurance Fund; and

"(II) the Bank Insurance Fund.

"(iii) INSURANCE COSTS.—For purposes of this subparagraph, the insurance costs include—

"(I) additions to the Bank Insurance Fund's reserve to provide for insurance losses during the calendar year, excluding any adjustments to such reserve which result in a reduction of such reserve; and

"(II) the insurance losses sustained in such calendar year.

"(C) SAVINGS ASSOCIATION INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Savings Association Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such Fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Savings Association Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Savings Association Insurance Fund; and

"(II) the Savings Association Insurance Fund.

"(iii) INSURANCE COSTS.—For the purposes of this subparagraph, the insurance costs include—

"(I) additions to the Savings Association Insurance Fund's reserve to provide for insurance losses during the calendar year, excluding any adjustments to such reserve which result in a reduction of such reserve; and

"(II) the insurance losses sustained in such calendar year.

"(5) INVESTMENT INCOME DEFINED.—For purposes of this subsection, the term 'investment income' means—

"(A) for the Bank Insurance Fund, interest, dividends, and net market gains earned on investments of the Bank Insurance Fund; and

"(B) for the Savings Association Insurance Fund, interest, dividends, and net market gains earned on investments of the Savings Association Insurance Fund.".

(6) in paragraphs (3), (4), (5), (6), (7), and (8) of subsection (b), by striking out "bank", "bank's", and "banks" each place such term appears (except where "foreign" precedes any of such terms) and inserting in lieu thereof "depository institution",

"depository institution's", and "depository institutions", respectively;

(7) in subsections (c), (e), (f), (g), and (i), by striking out "bank" each place such term appears and inserting in lieu thereof "depository institution";

(8) in subsection (j)(1), by striking out the last sentence;

(9) in subsection (j)(2)(A)—

(A) by striking out "failure" and inserting in lieu thereof "default"; and

(B) by striking out "bank" each place such term appears and inserting in lieu thereof "depository institution";

(10) in subsection (j)(2)(D), by inserting "unless such agency determines that an emergency exists," after "shall,";

(11) in subsection (j)(7)—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) the appropriate Federal banking agency determines that the proposed transaction would result in an adverse effect on the Bank Insurance Fund or the Savings Association Insurance Fund.";

(12) by amending subsection (j)(17) to read as follows:

"(17) EXCEPTIONS.—This subsection shall not apply with respect to a transaction which is subject to—

"(A) section 3 of the Bank Holding Company Act of 1956;

"(B) section 18(c) of this Act; or

"(C) section 10 of the Home Owners' Loan Act.";

(13) by adding at the end of subsection (j) the following new paragraph:

"(18) APPLICABILITY OF CHANGE IN CONTROL PROVISIONS TO OTHER INSTITUTIONS.—For purposes of this subsection, the term 'insured depository institution' includes—

"(A) any depository institution holding company; and

"(B) any other company which controls an insured depository institution and is not a depository institution holding company.";

(14) by adding at the end thereof the following new subsection:

"(l) DESIGNATION OF FUND MEMBERSHIP FOR NEWLY INSURED DEPOSITORY INSTITUTIONS; DEFINITIONS.—For purposes of this section:

"(1) BANK INSURANCE FUND.—Any institution which—

"(A) becomes an insured depository institution; and

"(B) does not become a Savings Association Insurance Fund member pursuant to paragraph (2),

shall be a Bank Insurance Fund member.

"(2) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association, other than any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act, which becomes an insured depository institution shall be a Savings Association Insurance Fund member.

"(3) TRANSITION PROVISION.—

"(A) BANK INSURANCE FUND.—Any depository institution the deposits of which were insured by the Federal Deposit Insurance Corporation on the day before the date of the

enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including—

"(i) any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act; and

"(ii) any cooperative bank,

shall be a Bank Insurance Fund member as of such date of enactment.

"(B) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association which is an insured depository institution by operation of section 4(a)(2) shall be a Savings Association Insurance Fund member as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) BANK INSURANCE FUND MEMBER.—The term 'Bank Insurance Fund member' means any depository institution the deposits of which are insured by the Bank Insurance Fund.

"(5) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means any depository institution the deposits of which are insured by the Savings Association Insurance Fund.

"(6) BANK INSURANCE FUND RESERVE RATIO.—The term 'Bank Insurance Fund reserve ratio' means the ratio of the net worth of the Bank Insurance Fund to the value of the aggregate estimated insured deposits held in all Bank Insurance Fund members.

"(7) SAVINGS ASSOCIATION INSURANCE FUND RESERVE RATIO.—The term 'Savings Association Insurance Fund reserve ratio' means the ratio of the value of the net worth of the Savings Association Insurance Fund to the value of the aggregate estimated insured deposits held in all Savings Association Insurance Fund members.";

(15) by adding after the subsection added by paragraph (14) of this section the following new subsections:

"(m) SECONDARY RESERVE OFFSETS AGAINST PREMIUMS.—

"(1) OFFSETS IN CALENDAR YEARS BEGINNING BEFORE 1993.—Subject to the maximum amount limitation contained in paragraph (2) and notwithstanding any other provision of law, any insured savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) of this section for any calendar year beginning before 1993.

"(2) ANNUAL MAXIMUM AMOUNT LIMITATION.—The amount of any offset allowed for any savings association under paragraph (1) for any calendar year beginning before 1993 shall not exceed an amount which is equal to 20 percent of such association's pro rata share of the statutorily prescribed amount (as computed for such calendar year).

"(3) OFFSETS IN CALENDAR YEARS BEGINNING AFTER 1992.—Notwithstanding any other provision of law, a savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) for any calendar year beginning after 1992.

"(4) TRANSFERABILITY.—No right, title, or interest of any insured depository institution in or with respect to its pro rata share of the secondary reserve shall be assignable or transferable whether by operation of law or otherwise, except to the

extent that the Corporation may provide for transfer of such pro rata share in cases of merger or consolidation, transfer of bulk assets or assumption of liabilities, and similar transactions, as defined by the Corporation for purposes of this paragraph.

"(5) PRO RATA DISTRIBUTION ON TERMINATION OF INSURED STATUS.—If—

"(A) the status of any savings association as an insured depository institution is terminated pursuant to any provision of section 8 or the insurance of accounts of any savings association institution is otherwise terminated;

"(B) a receiver or other legal custodian is appointed for the purpose of liquidation or winding up the affairs of any savings association; or

"(C) the Corporation makes a determination that for the purposes of this subsection any savings association has otherwise gone into liquidation,

the Corporation shall pay in cash to such institution its pro rata share of the secondary reserve, in accordance with such terms and conditions as the Corporation may prescribe, or, at the option of the Corporation, the Corporation may apply the whole or any part of the amount which would otherwise be paid in cash toward the payment of any indebtedness or obligation, whether matured or not, of such institution to the Corporation, existing or arising before such payment in cash. Such payment or such application need not be made to the extent that the provisions of the exception in paragraph (4) are applicable.

"(6) STATUTORILY PRESCRIBED AMOUNT DEFINED.—For purposes of this subsection, the term 'statutorily prescribed amount' means, with respect to any calendar year which ends after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(A) $823,705,000, minus

"(B) the sum of—

"(i) the aggregate amount of offsets made before such date of enactment by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment); and

"(ii) the aggregate amount of offsets made by all savings associations under this subsection before the beginning of such calendar year.

"(7) SAVINGS ASSOCIATION'S PRO RATA AMOUNT.—For purposes of this subsection, any savings association's pro rata share of the statutorily prescribed amount is the percentage which is equal to such association's share of the secondary reserve as determined under section 404(e) of the National Housing Act on the day before the date on which Federal Savings and Loan Insurance Corporation ceased to recognize the secondary reserve (as such Act was in effect on the day before such date).

"(8) YEAR OF ENACTMENT RULE.—With respect to the calendar year in which the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is enacted, the Corporation shall make such adjustments as may be necessary—

"(A) in the computation of the statutorily prescribed amount which shall be applicable for the remainder of such calendar year after taking into account the aggregate amount of offsets by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before the

date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) after the beginning of such calendar year and before such date of enactment; and

"(B) in the computation of the maximum amount of any savings association's offset for such calendar year under paragraph (1) after taking into account—

"(i) the amount of any offset by such savings association under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment) after the beginning of such calendar year and before such date of enactment; and

"(ii) the change of such association's premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before such date of enactment) to a calendar year basis.

"(n) COLLECTIONS ON BEHALF OF THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—When requested by the Director of the Office of Thrift Supervision, the Corporation shall collect on behalf of the Director assessments on savings associations levied by the Director under section 9 of the Home Owners' Loan Act. The Corporation shall be reimbursed for its actual costs for the collection of such assessments. Any such assessments by the Director shall be in addition to any amounts assessed by the Corporation, the Financing Corporation, and the Resolution Funding Corporation.".

SEC. 209. CORPORATE POWERS OF THE FDIC.

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended—

(1) by striking out "bank" and "banks" each place such terms appear (except in the last sentence of the paragraph designated the "Fourth") and inserting in lieu thereof "depository institution" and "depository institutions", respectively; and

(2) by striking out "Upon the date" and inserting the following:

"(a) IN GENERAL.—Upon the date";

(3) by amending the paragraph designated the "Fourth" to read as follows:

"Fourth. To sue and be sued, and complain and defend, in any court of law or equity, State or Federal."; and

(4) by adding at the end thereof the following new subsection:

"(b) AGENCY AUTHORITY.—

"(1) STATUS.—The Corporation, in any capacity, shall be an agency of the United States for purposes of section 1345 of title 28, United States Code, without regard to whether the Corporation commenced the action.

"(2) FEDERAL COURT JURISDICTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), all suits of a civil nature at common law or in equity to which the Corporation, in any capacity, is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—Except as provided in subparagraph (D), the Corporation may, without bond or security, remove any action, suit, or proceeding from a State court to the appropriate United States district court.

"(C) APPEAL OF REMAND.—The Corporation may appeal any order of remand entered by any United States district court.

"(D) STATE ACTIONS.—Except as provided in subparagraph (E), any action—

"(i) to which the Corporation, in the Corporation's capacity as receiver of a State insured depository institution by the exclusive appointment by State authorities, is a party other than as a plaintiff;

"(ii) which involves only the preclosing rights against the State insured depository institution, or obligations owing to, depositors, creditors, or stockholders by the State insured depository institution; and

"(iii) in which only the interpretation of the law of such State is necessary,

shall not be deemed to arise under the laws of the United States.

"(E) RULE OF CONSTRUCTION.—Subparagraph (D) shall not be construed as limiting the right of the Corporation to invoke the jurisdiction of any United States district court in any action described in such subparagraph if the institution of which the Corporation has been appointed receiver could have invoked the jurisdiction of such court.

"(3) SERVICE OF PROCESS.—The Board of Directors shall designate agents upon whom service of process may be made in any State, territory, or jurisdiction in which any insured depository institution is located.

"(4) BONDS OR FEES.—The Corporation shall not be required to post any bond to pursue any appeal and shall not be subject to payments of any filing fees in United States district courts or courts of appeal.".

SEC. 210. ADMINISTRATION OF CORPORATION.

(a) EXAMINATION AUTHORITY.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended to read as follows:

"(b) EXAMINATIONS.—

"(1) APPOINTMENT OF EXAMINERS AND CLAIMS AGENTS.—The Board of Directors shall appoint examiners and claim agents.

"(2) REGULAR EXAMINATIONS.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to examine—

"(A) any insured State nonmember bank (except a District bank) or insured State branch of any foreign bank;

"(B) any savings association, State nonmember bank, or State branch of a foreign bank, or other depository institution which files an application with the Corporation to become an insured depository institution; and

"(C) any insured depository institution in default,

whenever the Board of Directors determines an examination of any such depository institution is necessary.

"(3) SPECIAL EXAMINATION OF ANY INSURED DEPOSITORY INSTITUTION.—In addition to the examinations authorized under paragraph (2), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make any special examination of any insured depository institution whenever the Board of Directors determines a special examination of

any such depository institution is necessary to determine the condition of such depository institution for insurance purposes.

"(4) EXAMINATION OF AFFILIATES.—

"(A) IN GENERAL.—In making any examination under paragraph (2) or (3), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make such examinations of the affairs of any affiliate of any insured depository institution as may be necessary to disclose fully—

"(i) the relationship between such insured depository institution and any such affiliate; and

"(ii) the effect of such relationship on the insured depository institution.

"(B) COMMITMENT BY FOREIGN BANKS TO ALLOW EXAMINATIONS OF AFFILIATES.—No branch or depository institution subsidiary of a foreign bank may become an insured depository institution unless such foreign bank submits a written binding commitment to the Board of Directors to permit any examination of any affiliate of such branch or depository institution subsidiary pursuant to subparagraph (A) to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act.

"(5) POWER AND DUTY OF EXAMINERS.—Each examiner appointed under paragraph (1) shall—

"(A) have power to make a thorough examination of any insured depository institution or affiliate under paragraph (2), (3), or (4); and

Reports.

"(B) shall make a full and detailed report of condition of any insured depository institution or affiliate examined to the Corporation.

"(6) POWER OF CLAIM AGENTS.—Each claim agent appointed under paragraph (1) shall have power to investigate and examine all claims for insured deposits.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 10(c) of the Federal Deposit Insurance Act (12 U.S.C. 1820(c)) is amended by striking out ", State nonmember banks or other institutions" and inserting in lieu thereof "and any State nonmember bank, savings association, or other institution".

(2) Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by striking out subsection (d).

SEC. 211. INSURANCE FUNDS.

Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(1) by striking cut paragraph (1) and inserting the following:

"(1) The Corporation shall insure the deposits of all insured depository institutions as provided in this Act. The maximum amount of the insured deposit of any depositor shall be $100,000.";

(2) in paragraph (2)(B), by striking out "time and savings"; and

(3) by adding at the end the following new paragraphs:

"(4) GENERAL PROVISION RELATING TO FUNDS.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall each be—

"(A) maintained and administered by the Corporation;

"(B) maintained separately and not commingled; and

"(C) used by the Corporation to carry out its insurance purposes in the manner provided in this subsection.

"(5) BANK INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established a fund to be known as the Bank Insurance Fund.

"(B) TRANSFER TO FUND.—On the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Permanent Insurance Fund shall be dissolved and all assets and liabilities of the Permanent Insurance Fund shall be transferred to the Bank Insurance Fund.

"(C) USES.—The Bank Insurance Fund shall be available to the Corporation for use with respect to Bank Insurance Fund members.

"(D) DEPOSITS.—All amounts assessed against Bank Insurance Fund members by the Corporation shall be deposited into the Bank Insurance Fund.

"(6) SAVINGS ASSOCIATION INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established a fund to be known as the Savings Association Insurance Fund.

"(B) USES.—The Savings Association Insurance Fund shall be available to the Corporation for use with respect to Savings Association Insurance Fund members.

"(C) DEPOSITS.—All amounts assessed against Savings Association Insurance Fund members which are not required for the Financing Corporation, the Resolution Funding Corporation, or the FSLIC Resolution Fund shall be deposited in the Savings Association Insurance Fund.

"(D) AVAILABILITY OF FUNDS FOR ADMINISTRATIVE EXPENSES.—

"(i) IN GENERAL.—The FSLIC Resolution Fund shall deposit in the Savings Association Insurance Fund such amounts as the Corporation determines are needed during the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on September 30, 1991, to pay the administrative and supervisory expenses of such Fund.

"(ii) PRIORITY.—The Savings Association Insurance Fund shall have priority over other obligations of the FSLIC Resolution Fund with respect to such amounts.

"(E) TREASURY PAYMENTS TO FUND.—To provide sufficient funding for the Savings Association Insurance Fund to carry out the purposes of this Act, the Secretary of the Treasury shall pay to such Fund, for each of the fiscal years 1992 through 1999, the amount, if any, by which $2,000,000,000 exceeds the amount deposited in such Fund (during such fiscal year) pursuant to subparagraph (C).

"(F) TREASURY PAYMENTS TO MAINTAIN NET WORTH OF FUND.—The Secretary of the Treasury shall pay to the Savings Association Insurance Fund, for each fiscal year described in the following table, any additional amount which may be necessary, as determined by the Corporation and the Secretary of the Treasury to ensure that such Fund has the minimum net worth referred to in such table throughout each such fiscal year:

"For the fiscal year beginning October 1 of:	The amount of minimum net worth (in billions):
1991	0.0
1992	1.0
1993	2.1
1994	3.2
1995	4.3
1996	5.4
1997	6.5
1998	7.6
1999	8.8

"(G) EXCEPTION TO SUBPARAGRAPHS (E) AND (F).—Notwithstanding subparagraphs (E) and (F), no payment may be made pursuant to such subparagraphs after the Savings Association Insurance Fund achieves a reserve ratio of 1.25 percent.

"(H) DISCRETIONARY RTC PAYMENTS.—If amounts available to the Savings Association Insurance Fund for purposes other than the payment of administrative expenses are insufficient for the Savings Association Insurance Fund to carry out the purposes of this Act, the Corporation may request the Resolution Trust Corporation to provide, and the Oversight Board of the Resolution Trust Corporation (in the discretion of the Oversight Board) may pay, such amount as may be needed for such purposes.

"(I) BORROWING AUTHORITY.—

"(i) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Savings Association Insurance Fund.

"(ii) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under clause (i) to the Savings Association Insurance Fund shall—

"(I) bear a rate of interest of not less than such bank's current marginal cost of funds, taking into account the maturities involved;

"(II) be adequately secured, as determined by the Federal Housing Finance Board;

"(III) be a direct liability of such Fund; and

"(IV) be subject to the limitations of section 15(c).

"(J) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury, such sums as may be necessary to carry out the provisions of this paragraph, except that—

"(i) the annual amount appropriated under subparagraph (F) shall not exceed $2,000,000,000 in either fiscal year 1991 or fiscal year 1992; and

"(ii) the cumulative amount appropriated under subparagraph (F) for fiscal years 1991 through 1999 shall not exceed $16,000,000,000.

"(7) PROVISIONS APPLICABLE TO MAINTENANCE OF ACCOUNTS.—

"(A) CORPORATION'S AUTHORITY.—Any provision of this Act forbidding the commingling of the Bank Insurance Fund with the Savings Association Insurance Fund, or requiring the separate maintenance of the Bank Insurance Fund and the Savings Association Insurance Fund, is not intended—

"(i) to limit or impair the authority of the Corporation to use the same facilities and resources in the course of conducting supervisory, regulatory, conservatorship, receivership, or liquidation functions with respect to banks and savings associations, or to integrate such functions; or

"(ii) to limit or impair the Corporation's power to combine assets or liabilities belonging to banks and savings associations in conservatorship or receivership for managerial purposes, or to limit or impair the Corporation's power to dispose of such assets or liabilities on an aggregate basis.

"(B) ACCOUNTING REQUIREMENTS.—

"(i) ACCOUNTING FOR USE OF FACILITIES AND RESOURCES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the use of any facility or resource used in the course of any function specified in subparagraph (A)(i) and shall allocate, in the manner provided in subparagraph (C), any such costs and expenses incurred by the Corporation—

"(I) with respect to Bank Insurance Fund members to the Bank Insurance Fund; and

"(II) with respect to Savings Association Insurance Fund members to the Savings Association Insurance Fund.

"(ii) ACCOUNTING FOR HOLDING AND MANAGING ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the holding management of any asset or liability specified in subparagraph (A)(ii).

"(iii) ACCOUNTING FOR DISPOSITION OF ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all expenses and receipts associated with the disposition of any asset or liability specified in subparagraph (A)(ii).

"(iv) ALLOCATION OF COST, EXPENSES AND RECEIPTS.—The Corporation shall allocate any cost, expense, and receipt described in clause (ii) or clause (iii) which is associated with any asset or liability belonging to—

"(I) any Bank Insurance Fund member to the Bank Insurance Fund; and

"(II) any Savings Association Insurance Fund member to the Savings Association Insurance Fund.

"(C) ALLOCATION OF ADMINISTRATIVE EXPENSES.—Any personnel, administrative, or other overhead expense of the Corporation shall be allocated—

"(i) fully to the Bank Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Bank Insurance Fund members;

"(ii) fully to the Savings Association Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Savings Association Insurance Fund members;

"(iii) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative degree to which the expense was incurred as a result of the activities of Bank Insurance Fund and Savings Association Insurance Fund members; or

"(iv) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative total assets as of the end of the preceding calendar year of Bank Insurance Fund members and Savings Association Insurance Fund members, to the extent that the Board of Directors is unable to make a determination under clause (i), (ii), or (iii).".

SEC. 212. CONSERVATORSHIP AND RECEIVERSHIP POWERS OF THE CORPORATION.

(a) BASIC AUTHORITIES.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by striking out subsections (c) through (j) and inserting the following new subsections:

"(c) APPOINTMENT OF CORPORATION AS CONSERVATOR OR RECEIVER.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may accept appointment and act as conservator or receiver for any insured depository institution upon appointment in the manner provided in paragraph (2) or (3).

"(2) FEDERAL DEPOSITORY INSTITUTIONS.—

"(A) APPOINTMENT.—

"(i) CONSERVATOR.—The Corporation may, at the discretion of the supervisory authority, be appointed conservator of any insured Federal depository institution or District bank and the Corporation may accept such appointment.

"(ii) RECEIVER.—The Corporation shall be appointed receiver, and shall accept such appointment, whenever a receiver is appointed for the purpose of liquidation or winding up the affairs of an insured Federal depository institution or District bank by the appropriate Federal banking agency, notwithstanding any other provision of Federal law (other than section 21A of the Federal Home Loan Bank Act) or the code of law for the District of Columbia.

"(B) ADDITIONAL POWERS.—In addition to and not in derogation of the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver, the Corporation, to the extent not inconsistent with such powers and duties, shall have any other power conferred on or any duty (which is related to the exercise of such power) imposed on a conservator or receiver for any Federal depository institution under any other provision of law.

"(C) CORPORATION NOT SUBJECT TO ANY OTHER AGENCY.—When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any

State in the exercise of the Corporation's rights, powers, and privileges.

"(D) DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION.—Notwithstanding subparagraph (C), any Federal depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate Federal banking agency.

"(3) INSURED STATE DEPOSITORY INSTITUTIONS—

"(A) APPOINTMENT BY APPROPRIATE STATE SUPERVISOR.—Whenever the authority having supervision of any insured State depository institution (other than a District depository institution) appoints a conservator or receiver for such institution and tenders appointment to the Corporation, the Corporation may accept such appointment.

"(B) ADDITIONAL POWERS.—In addition to the powers conferred and the duties related to the exercise of such powers imposed by State law on any conservator or receiver appointed under the law of such State for an insured State depository institution, the Corporation, as conservator or receiver pursuant to an appointment described in subparagraph (A), shall have the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver.

"(C) CORPORATION NOT SUBJECT TO ANY OTHER AGENCY.—When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of its rights, powers, and privileges.

"(D) DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION.—Notwithstanding subparagraph (C), any insured State depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate State bank or savings association supervisor.

"(4) APPOINTMENT OF CORPORATION BY THE CORPORATION.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may appoint itself as sole conservator or receiver of any insured State depository institution if—

"(A) the Corporation determines—

"(i) that—

"(I) a conservator, receiver, or other legal custodian has been appointed for such institution;

"(II) such institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 consecutive days; and

"(III) 1 or more of the depositors in such institution is unable to withdraw any amount of any insured deposit; or

"(ii) that such institution has been closed by or under the laws of any State; and

"(B) the Corporation determines that 1 or more of the grounds specified in paragraph (5)—

"(i) existed with respect to such institution at the time—

"(I) the conservator, receiver, or other legal custodian was appointed; or

"(II) such institution was closed; or

"(ii) exist at any time—

"(I) during the appointment of the conservator, receiver, or other legal custodian; or

"(II) while such institution is closed.

"(5) GROUNDS FOR PARAGRAPH (4) APPOINTMENT.—The grounds referred to in paragraph (4)(B) for the appointment of the Corporation as conservator or receiver for any insured State depository institution are as follows:

"(A) Insolvency in that the assets of the institution are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) Substantial dissipation of assets or earnings due to—

"(i) any violation of any law or regulation; or

"(ii) any unsafe or unsound practice.

"(C) An unsafe or unsound condition to transact business, including substantially insufficient capital or otherwise.

"(D) Any willful violation of a cease-and-desist order which has become final.

"(E) Any concealment of books, papers, records, or assets of the institution or any refusal to submit books, papers, records, or affairs of the institution for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) The likelihood that the institution will not be able to meet the demands of its depositors or pay its obligations in the normal course of business.

"(G) The incurrence or likely incurrence of losses by the institution that will deplete all or substantially all of its capital with no reasonable prospect for the replenishment of the capital of the institution without Federal assistance.

"(H) Any violation of any law or regulation, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the institution or otherwise seriously prejudice the interests of its depositors.

"(6) APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

"(A) CONSERVATOR.—The Corporation or the Resolution Trust Corporation may, at the discretion of the Director of the Office of Thrift Supervision, be appointed conservator and the Corporation may accept any such appointment.

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owner's Loan Act for the purpose of liquidation or winding up any savings association's affairs—

"(i) during the 3-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Resolution Trust Corporation shall be appointed; and

"(ii) after the end of the 3-year period referred to in clause (i), the Corporation shall be appointed.

"(7) JUDICIAL REVIEW.—If the Corporation appoints itself as conservator or receiver under paragraph (4), the insured State depository institution may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to remove itself as such conservator or receiver, and the court shall, upon the merits, dismiss such action or direct the Corporation to remove itself as such conservator or receiver.

"(8) REPLACEMENT OF CONSERVATOR OF STATE DEPOSITORY INSTITUTION.—

"(A) IN GENERAL.—In the case of any insured State depository institution for which the Corporation appointed itself as conservator pursuant to paragraph (4), the Corporation may, without any requirement of notice, hearing, or other action, replace itself as conservator with itself as receiver of such institution.

"(B) REPLACEMENT TREATED AS REMOVAL OF INCUMBENT.—The replacement of a conservator with a receiver under subparagraph (A) shall be treated as the removal of the Corporation as conservator.

"(C) RIGHT OF REVIEW OF ORIGINAL APPOINTMENT NOT AFFECTED.—The replacement of a conservator with a receiver under subparagraph (A) shall not affect any right of the insured State depository institution to obtain review, pursuant to paragraph (7), of the original appointment of the conservator.

"(9) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver pursuant to paragraph (4) or (6)—

"(A) the provisions of this section shall be applicable to the Corporation, as conservator or receiver of any insured State depository institution in the same manner and to the same extent as if such institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver; and

"(B) the Corporation as receiver of any insured State depository institution may—

"(i) liquidate such institution in an orderly manner; and

"(ii) make such other disposition of any matter concerning such institution as the Corporation determines is in the best interests of the institution, the depositors of such institution, and the Corporation.

"(d) POWERS AND DUTIES OF CORPORATION AS CONSERVATOR OR RECEIVER.—

"(1) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such regulations as the Corporation determines to be appropriate regarding the conduct of conservatorships or receiverships.

"(2) GENERAL POWERS.—

"(A) SUCCESSOR TO INSTITUTION.—The Corporation shall, as conservator or receiver, and by operation of law, succeed to—

"(i) all rights, titles, powers, and privileges of the insured depository institution, and of any stockholder, member, accountholder, depositor, officer, or director of such institution with respect to the institution and the assets of the institution; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such institution.

"(B) OPERATE THE INSTITUTION.—The Corporation may, as conservator or receiver—

"(i) take over the assets of and operate the insured depository institution with all the powers of the members or shareholders, the directors, and the officers of the institution and conduct all business of the institution;

"(ii) collect all obligations and money due the institution;

"(iii) perform all functions of the institution in the name of the institution which is consistent with the appointment as conservator or receiver; and

"(iv) preserve and conserve the assets and property of such institution.

"(C) FUNCTIONS OF INSTITUTION'S OFFICERS, DIRECTORS, AND SHAREHOLDERS.—The Corporation may, by regulation or order, provide for the exercise of any function by any member or stockholder, director, or officer of any insured depository institution for which the Corporation has been appointed conservator or receiver.

"(D) POWERS AS CONSERVATOR.—The Corporation may, as conservator, take such action as may be—

"(i) necessary to put the insured depository institution in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the institution and preserve and conserve the assets and property of the institution.

"(E) ADDITIONAL POWERS AS RECEIVER.—The Corporation may, as receiver, place the insured depository institution in liquidation and proceed to realize upon the assets of the institution, having due regard to the conditions of credit in the locality.

"(F) ORGANIZATION OF NEW INSTITUTIONS.—The Corporation may, as receiver—

"(i) with respect to savings associations and by application to the Director of the Office of Thrift Supervision, organize a new Federal savings association to take over such assets or such liabilities as the Corporation may determine to be appropriate; and

"(ii) with respect to any insured bank, organize a new national bank under subsection (m) or a bridge bank under subsection (n).

"(G) MERGER; TRANSFER OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver—

"(I) merge the insured depository institution with another insured depository institution; or

"(II) subject to clause (ii), transfer any asset or liability of the institution in default (including

assets and liabilities associated with any trust business) without any approval, assignment, or consent with respect to such transfer.

"(ii) APPROVAL BY APPROPRIATE FEDERAL BANKING AGENCY.—No transfer described in clause (i)(II) may be made to another depository institution (other than a new bank or a bridge bank established pursuant to subsection (m) or (n)) without the approval of the appropriate Federal banking agency for such institution.

"(H) PAYMENT OF VALID OBLIGATIONS.—The Corporation, as conservator or receiver, shall pay all valid obligations of the insured depository institution in accordance with the prescriptions and limitations of this Act.

"(I) INCIDENTAL POWERS.—The Corporation may, as conservator or receiver—

"(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this Act and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this Act,

which the Corporation determines is in the best interests of the depository institution, its depositors, or the Corporation.

"(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

"(A) IN GENERAL.—The Corporation may, as receiver, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4)(A).

"(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed depository institution, shall—

"(i) promptly publish a notice to the depository institution's creditors to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

"(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the institution's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the institution's books within 30 days after the discovery of such name and address.

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

"(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

"(A) DETERMINATION PERIOD.—

"(i) IN GENERAL.—Before the end of the 180-day period beginning on the date any claim against a

depository institution is filed with the Corporation as receiver, the Corporation shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Corporation.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

"(I) on the depository institution's books;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIMS.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

"(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the receiver if—

"(I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and

"(II) such claim is filed in time to permit payment of such claim.

"(D) AUTHORITY TO DISALLOW CLAIMS.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the Corporation's determination pursuant to subparagraph (D) to disallow a claim.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a

claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

"(6) PROVISION FOR AGENCY REVIEW OR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—Before the end of the 60-day period beginning on the earlier of—

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a depository institution for which the Corporation is receiver; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with subparagraph (A) or (B) of paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the depository institution's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

"(B) STATUTE OF LIMITATIONS.—If any claimant fails to—

"(i) request administrative review of any claim in accordance with subparagraph (A) or (B) of paragraph (7); or

"(ii) file suit on such claim (or continue an action commenced before the appointment of the receiver),

before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(7) REVIEW OF CLAIMS.—

"(A) ADMINISTRATIVE HEARING.—If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Corporation agrees to such request, the Corporation shall consider the claim after opportunity for a hearing on the record. The final determination of the Corporation with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(B) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Corporation shall also establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Corporation shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Corporation may establish both binding

and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Corporation, must agree to the use of the process in a particular case.

"(iv) CONSIDERATION OF INCENTIVES.—The Corporation shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Corporation shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any depository institution for which the Corporation has been appointed receiver; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); and

"(ii) notify the claimant of the determination, and if the claim is disallowed, a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the receiver, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date the Corporation denies the claim.

"(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

"(9) AGREEMENT AS BASIS OF CLAIM.—

"(A) REQUIREMENTS.—Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 13(e) shall not form the basis of, or substantially comprise, a claim against the receiver or the Corporation.

"(B) EXCEPTION TO CONTEMPORANEOUS EXECUTION REQUIREMENT.—Notwithstanding section 13(e)(2), any agreement relating to an extension of credit between a Federal home loan bank or Federal Reserve bank and any insured depository institution which was executed before the extension of credit by such bank to such institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

"(10) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The receiver may, in the receiver's discretion and to the extent funds are available, pay creditor claims which are allowed by the receiver, approved by the Corporation pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this Act.

"(B) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the receiver's sole discretion, pay dividends on proved claims at any time, and no liability shall attach to the Corporation (in such Corporation's corporate capacity or as receiver), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(11) DISTRIBUTION OF ASSETS.—

"(A) SUBROGATED CLAIMS; CLAIMS OF UNINSURED DEPOSITORS AND OTHER CREDITORS.—The receiver shall—

"(i) retain for the account of the Corporation such portion of the amounts realized from any liquidation as the Corporation may be entitled to receive in connection with the subrogation of the claims of depositors; and

"(ii) pay to depositors and other creditors the net amounts available for distribution to them.

"(B) DISTRIBUTION TO SHAREHOLDERS OF AMOUNTS REMAINING AFTER PAYMENT OF ALL OTHER CLAIMS AND EXPENSES.—In any case in which funds remain after all depositors, creditors, other claimants, and administrative expenses are paid, the receiver shall distribute such funds to the depository institution's shareholders or members together with the accounting report required under paragraph (14)(C).

"(12) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or receiver for an insured depository institution, the conservator or receiver may request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and

"(ii) 90 days, in the case of any receiver,

in any judicial action or proceeding to which such institution is or becomes a party.

"(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or receiver pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(13) ADDITIONAL RIGHTS AND DUTIES.—

"(A) PRIOR FINAL ADJUDICATION.—The Corporation shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Corporation as conservator or receiver.

"(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Corporation as conservator or receiver shall—

"(i) have all the rights and remedies available to the insured depository institution (before the appointment of such conservator or receiver) and the Corporation in its corporate capacity, including removal to Federal court and all appellate rights; and

"(ii) not be required to post any bond in order to pursue such remedies.

"(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the receiver.

"(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any depository institution for which the Corporation has been appointed receiver, including assets which the Corporation may acquire from itself as such receiver; or

"(ii) any claim relating to any act or omission of such institution or the Corporation as receiver.

"(14) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as conservator or receiver shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law.

"(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitation begins to run on any claim described in such subparagraph shall be the later of—

"(i) the date of the appointment of the Corporation as conservator or receiver; or

"(ii) the date on which the cause of action accrues.

"(15) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Corporation as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each conservatorship and receivership or other disposition of institutions in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership to which the Corporation was appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary of the Treasury, the Comptroller General of the United States, and the authority which appointed the Corporation as conservator or receiver.

"(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) shall be made available by the Corporation upon request to any shareholder of the depository institution for which the Corporation was appointed conservator or receiver or any other member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date the Corporation is appointed as receiver of an insured depository institution, the Corporation may destroy any records of such institution which the Corporation, in the Corporation's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(16) CONTRACTS WITH STATE HOUSING FINANCE AUTHORITIES.—

"(A) IN GENERAL.—The Corporation may enter into contracts with any State housing finance authority for the sale of mortgage-related assets (as such terms are defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) of any depository institution in default (including assets and liabilities associated with any trust business), such contracts to be effective in accordance with their terms without any further approval, assignment, or consent with respect thereto.

"(B) FACTORS TO CONSIDER.—In evaluating the disposition of mortgage related assets to any State housing finance authority the Corporation shall consider—

"(i) the State housing finance authority's ability to acquire and service current, delinquent, and defaulted mortgage related assets;

"(ii) the State housing finance authority's ability to further national housing policies;

"(iii) the State housing finance authority's sensitivity to the impact of the sale of mortgage related assets upon the State and local communities;

"(iv) the costs to the Federal Government associated with alternative ownership or dispositions of the mortgage related assets;

"(v) the minimization of future guaranties which may be required of the Federal Government;

"(vi) the maximization of mortgage related asset values; and

"(vii) the utilization of institutions currently established in mortgage related asset market activities.

"(e) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any insured depository institution may disaffirm or repudiate any contract or lease—

"(A) to which such institution is a party;

"(B) the performance of which the conservator or receiver, in the conservator's or receiver's discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or receiver determines, in the conservator's or receiver's discretion, will promote the orderly administration of the institution's affairs.

"(2) TIMING OF REPUDIATION.—The conservator or receiver appointed for any insured depository institution in accordance with subsection (c) shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or receiver; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' does not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (k) except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE INSTITUTION IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the insured depository institution was the lessee, the conservator or

receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective,

unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and Claims.

"(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (k). Claims.

"(5) LEASES UNDER WHICH THE INSTITUTION IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the insured depository institution under which the institution is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease;

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the insured depository institution under the lease after such date; and

"(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or receiver repudiates any contract (which meets the requirements of each paragraph of section 13(e)) for the sale of real property and the purchaser of such real property under such contract is

in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

"(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

"(i) the purchaser—

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the depository institution under the contract; and

"(ii) the conservator or receiver shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

"(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

Claims.

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any insured depository institution for which the Corporation has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or the receiver shall be—

"(i) a claim to be paid in accordance with subsections (d) and (i); and

"(ii) deemed to have arisen as of the date the conservator or receiver was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise

the right of repudiation of such contract under this section—

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or receiver of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraph (10) of this subsection and notwithstanding any other provision of this Act (other than subsections (d)(9) and (i)(4)(I) of this section and section 13(e)), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right to cause the termination or liquidation of any qualified financial contract with an insured depository institution which arises upon the appointment of the Corporation as receiver for such institution at any time after such appointment;

"(ii) any right under any security arrangement relating to any contract or agreement described in clause (i); or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (d)(12) shall apply in the case of any judicial action or proceeding brought against any receiver referred to in subparagraph (A), or the insured depository institution for which such receiver was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such institution.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), the Corporation, whether acting as such or as conservator or receiver of an insured depository institution, may not avoid any transfer of money or other property in connection with any qualified financial contract with an insured depository institution.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with an insured depository institution if the Corporation determines that the transferee had actual intent to hinder, delay, or defraud such institution, the creditors of such institution, or any conservator or receiver appointed for such institution.

"(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection—

"(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation to be a qualified financial contract for purposes of this paragraph.

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) has the meaning given to such term in section 741(7) of title 11, United States Code, except that the term 'security' (as used in such section) shall be deemed to include any mortgage loan, any mortgage-related security (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), and any interest in any mortgage loan or mortgage-related security; and

"(II) does not include any participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' has the meaning given to such term in section 761(4) of title 11, United States Code.

"(iv) FORWARD CONTRACT.—The term 'forward contract' has the meaning given to such term in section 101(24) of title 11, United States Code.

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement'—

"(I) has the meaning given to such term in section 101(41) of title 11, the United States Code, except that the items (as described in such section) which may be subject to any such agreement shall be deemed to include mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, any mortgage loan, and any interest in any mortgage loan; and

"(II) does not include any participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(vi) SWAP AGREEMENT.—The term 'swap agreement'—

"(I) means any agreement, including the terms and conditions incorporated by reference in any such agreement, which is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option purchased, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, or

currency option purchased or any other similar agreement, and

"(II) includes any combination of such agreements and any option to enter into any such agreement.

"(vii) TREATMENT OF MASTER AGREEMENT AS 1 SWAP AGREEMENT.—Any master agreement for any agreements described in clause (vi)(I) together with all supplements to such master agreement shall be treated as 1 swap agreement.

"(viii) TRANSFER.—The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (12) of this subsection, subsections (d)(9) and (i)(4)(I) of this section, and section 13(e) of this Act), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a depository institution in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security arrangement relating to such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(A) transfer to 1 depository institution (other than a depository institution in default)— Claims.

"(i) all qualified financial contracts between—

"(I) any person or any affiliate of such person; and

"(II) the depository institution in default;

"(ii) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(iii) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(iv) all property securing any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to in subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or receiver for an insured depository institution in default makes any transfer of the assets and liabilities of such institution; and

"(ii) the transfer includes any qualified financial contract,

the conservator or receiver shall use such conservator's or receiver's best efforts to notify any person who is a party to any such contract of such transfer by 12:00, noon (local time) on the business day following such transfer.

"(B) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any depository institution except where such an interest is taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution.

"(12) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—The conservator or receiver may enforce any contract, other than a director's or officer's liability insurance contract or a depository institution bond, entered into by the depository institution notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or receiver.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a directors or officers liability insurance contract or depository institution bond under other applicable law.

"(13) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

"(B) any security interest in the assets of the institution securing any such extension of credit.

"(f) PAYMENT OF INSURED DEPOSITS.—

"(1) IN GENERAL.—In case of the liquidation of, or other closing or winding up of the affairs of, any insured depository institution, payment of the insured deposits in such institution shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g), either by cash or by making available to each depositor a transferred deposit in a new insured depository institution in the same community or in another insured depository institution in an amount equal to the insured deposit of such depositor, except that—

"(A) all payments made pursuant to this section on account of a closed Bank Insurance Fund member shall be made only from the Bank Insurance Fund, and

"(B) all payments made pursuant to this section on account of a closed Savings Association Insurance Fund member shall be made only from the Savings Association Insurance Fund.

"(2) PROOF OF CLAIMS.—The Corporation, in its discretion, may require proof of claims to be filed and may approve or reject such claims for insured deposits.

"(3) RESOLUTION OF DISPUTES.—

"(A) RESOLUTIONS IN ACCORDANCE TO CORPORATION REGULATIONS.—In the case of any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit, the Corporation may resolve such disputed claim in accordance with regulations prescribed by the Corporation establishing procedures for resolving such claims. Claims.

"(B) ADJUDICATION OF CLAIMS.—If the Corporation has not prescribed regulations establishing procedures for resolving disputed claims, the Corporation may require the final determination of a court of competent jurisdiction before paying any such claim.

"(4) REVIEW OF CORPORATION'S DETERMINATION.—Final determination made by the Corporation shall be reviewable in accordance with chapter 7 of title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the depository institution is located. Courts, U.S.

"(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Corporation shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(g) SUBROGATION OF CORPORATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation, upon the payment to any depositor as provided in subsection (f) in connection with any insured depository institution or insured branch described in such subsection or the assumption of any deposit in such institution or branch by another insured depository institution pursuant to this section or section 13, shall be subrogated to all rights of the depositor against such institution or branch to the extent of such payment or assumption.

"(2) DIVIDENDS ON SUBROGATED AMOUNTS.—The subrogation of the Corporation under paragraph (1) with respect to any insured depository institution shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such institution and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain such claim for any uninsured or unassumed portion of the deposit. Claims.

"(3) WAIVER OF CERTAIN CLAIMS.—With respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon such stock in such bank; but any such

waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated.

"(4) APPLICABILITY OF STATE LAW.—If the Corporation is appointed pursuant to subsection (c)(3), or determines not to invoke the authority conferred in subsection (c)(4), the rights of depositors and other creditors of any State depository institution shall be determined in accordance with the applicable provisions of State law.

"(h) CONDITIONS APPLICABLE TO LIQUIDATION PROCEEDINGS.—

"(1) CONSIDERATION OF LOCAL ECONOMIC IMPACT REQUIRED.—The Corporation shall fully consider the adverse economic impact on local communities, including businesses and farms, of actions to be taken by it during the administration and liquidation of loans of a depository institution in default.

"(2) ACTIONS TO ALLEVIATE ADVERSE ECONOMIC IMPACT TO BE CONSIDERED.—The actions which the Corporation shall consider include the release of proceeds from the sale of products and services for family living and business expenses and shortening the undue length of the decisionmaking process for the acceptance of offers of settlement contingent upon third party financing.

"(3) GUIDELINES REQUIRED.—The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community.

"(i) VALUATION OF CLAIMS IN DEFAULT.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State and regardless of the method which the Corporation determines to utilize with respect to an insured depository institution in default or in danger of default, including transactions authorized under subsection (n) and section 13(c), this subsection shall govern the rights of the creditors (other than insured depositors) of such institution.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Corporation, acting as receiver or in any other capacity, to any person having a claim against the receiver or the insured depository institution for which such receiver is appointed shall equal the amount such claimant would have received if the Corporation had liquidated the assets and liabilities of such institution without exercising the Corporation's authority under subsection (n) of this section or section 13.

"(3) ADDITIONAL PAYMENTS AUTHORIZED.—

"(A) IN GENERAL.—The Corporation may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. The Corporation shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category or claimants.

"(B) SOURCE OF FUNDS.—If the depository institution in default is a Bank Insurance Fund member, the Corporation may only make such payments out of funds held in the Bank Insurance Fund. If the depository institution in de-

fault is a Savings Association Insurance Fund member, the Corporation may only make such payments out of funds held in the Savings Association Insurance Fund.

"(C) MANNER OF PAYMENT.—The Corporation may make the payments or credit the amounts specified in subparagraphs (A) and (B) directly to the claimants or may make such payments or credit such amounts to an open insured depository institution to induce such institution to accept liability for such claims.

"(j) LIMITATION ON COURT ACTION.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Corporation as a conservator or a receiver.

"(k) LIABILITY OF DIRECTORS AND OFFICERS.—A director or officer of an insured depository institution may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation—

"(1) acting as conservator or receiver of such institution,

"(2) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator, or

"(3) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by an insured depository institution or its affiliate in connection with assistance provided under section 13,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right of the Corporation under other applicable law.

"(l) DAMAGES.—In any proceeding related to any claim against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, recoverable damages determined to result from the improvident or otherwise improper use or investment of any insured depository institution's assets shall include principal losses and appropriate interest.".

SEC. 213. NEW BANKS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (l) (as added by section 212) the following new subsection:

"(m) NEW BANKS.—

"(1) ORGANIZATION AUTHORIZED.—As soon as possible after the default of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the insured bank in default or the public shall organize a new national bank in the same community as the bank in default to assume the insured deposits of such bank in default and otherwise to perform temporarily the functions hereinafter provided for.

"(2) ARTICLES OF ASSOCIATION.—The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation.

"(3) CAPITAL STOCK.—No capital stock need be paid in by the Corporation.

"(4) EXECUTIVE OFFICER.—The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions.

"(5) SUBJECT TO LAWS RELATING TO NATIONAL BANKS.—In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations.

"(6) NEW DEPOSITS.—The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed $100,000 from any depositor.

"(7) INSURED STATUS.—The new bank, without application to or approval by the Corporation, shall be an insured depository institution and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank.

"(8) INVESTMENTS.—Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, any Federal Reserve bank, or, to the extent of the insurance coverage on any such deposit, an insured depository institution.

"(9) CONDUCT OF BUSINESS.—The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact business only as authorized by this Act and as may be incidental to its organization.

Taxes.

"(10) EXEMPT STATUS.—Notwithstanding any other provision of Federal or State law, the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

"(11) TRANSFER OF DEPOSITS.—(A) Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such bank in default plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for the depositor's insured deposit in the bank in default, and the total expenses of operation of the new bank.

"(B) Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined.

"(12) EARNINGS.—Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment.

"(13) LOSSES.—If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses.

"(14) PAYMENT OF INSURED DEPOSITS.—(A) The new bank shall assume as transferred deposits the payment of the insured deposits of such bank in default to each of its depositors.

"(B) Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

"(15) ISSUANCE OF STOCK.—(A) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the Board of Directors shall deem advisable in an amount sufficient, in the opinion of the Board of Directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 5138 of the Revised Statutes for the organization of a national bank in the place where such new bank is located.

"(B) The stockholders of the insured bank in default shall be given the first opportunity to purchase any shares of common stock so offered.

"(16) ISSUANCE OF CERTIFICATE.—Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, the Comptroller of the Currency shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders, may exercise all the powers granted by law, and shall be subject to all provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation. Securities.

"(17) TRANSFER TO OTHER INSTITUTION.—If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the Board of Directors may offer to transfer its business to any insured depository institution in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the Board of Directors may deem adequate; or the Board of Directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided. Securities.

"(18) WINDING UP.—Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured depository institution as above provided within 2 years after the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of Securities.

the new bank. Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets.

"(19) APPLICABILITY OF CERTAIN LAWS.—The provisions of sections 5220 and 5221 of the Revised Statutes shall not apply to a new bank under this subsection.".

SEC. 214. BRIDGE BANKS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 213) the following new subsection:

"(n) BRIDGE BANKS.—

"(1) ORGANIZATION.—

"(A) PURPOSE.—When 1 or more insured banks are in default, or when the Corporation anticipates that 1 or more insured banks may become in default, the Corporation may, in its discretion, organize, and the Office of the Comptroller of the Currency shall charter, 1 or more national banks with respect thereto with the powers and attributes of national banking associations, subject to the provisions of this subsection, to be referred to as bridge banks.

"(B) AUTHORITIES.—Upon the granting of a charter to a bridge bank, the bridge bank may—

"(i) assume such deposits of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate, except that if any insured deposits of a bank are assumed, all insured deposits of that bank shall be assumed by the bridge bank or another insured depository institution;

"(ii) assume such other liabilities (including liabilities associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate;

"(iii) purchase such assets (including assets associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate; and

"(iv) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this Act.

"(C) ARTICLES OF ASSOCIATION.—The articles of association and organization certificate of a bridge bank as approved by the Corporation shall be executed by 3 representatives designated by the Corporation.

"(D) INTERIM DIRECTORS.—A bridge bank shall have an interim board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(E) NATIONAL BANK.—A bridge bank shall be organized as a national bank.

"(2) CHARTERING.—

"(A) CONDITIONS.—A national bank may be chartered by the Comptroller of the Currency as a bridge bank only if the Board of Directors determines that—

"(i) the amount which is reasonably necessary to operate such bridge bank will not exceed the amount

which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, 1 or more insured banks in default or in danger of default with respect to which the bridge bank is chartered;

"(ii) the continued operation of such insured bank or banks in default or in danger of default with respect to which the bridge bank is chartered is essential to provide adequate banking services in the community where each such bank in default or in danger of default is located; or

"(iii) the continued operation of such insured bank or banks in default or in danger of default with respect to which the bridge bank is chartered is in the best interest of the depositors of such bank or banks in default or in danger of default or the public.

"(B) INSURED NATIONAL BANK.—A bridge bank shall be an insured bank from the time it is chartered as a national bank.

"(C) BRIDGE BANK TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A bridge bank shall be treated as an insured bank in default at such times and for such purposes as the Corporation may, in its discretion, determine.

"(D) MANAGEMENT.—A bridge bank, upon the granting of its charter, shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(E) BYLAWS.—The board of directors of a bridge bank shall adopt such bylaws as may be approved by the Corporation.

"(3) TRANSFER OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—

"(i) TRANSFER UPON GRANT OF CHARTER.—Upon the granting of a charter to a bridge bank pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to any insured bank in default with respect to which the bridge bank is chartered may transfer any assets and liabilities of such bank in default to the bridge bank in accordance with paragraph (1).

"(ii) SUBSEQUENT TRANSFERS.—At any time after a charter is granted to a bridge bank, the Corporation, as receiver, or any other receiver appointed with respect to an insured bank in default may transfer any assets and liabilities of such insured bank in default as the Corporation may, in its discretion, determine to be appropriate in accordance with paragraph (1).

"(iii) TREATMENT OF TRUST BUSINESS.—For purposes of this paragraph, the trust business, including fiduciary appointments, of any insured bank in default is included among its assets and liabilities.

"(iv) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities, including those associated with any trust business, of an insured bank in default transferred to a bridge bank shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

"(B) INTENT OF CONGRESS REGARDING CONTINUING OPERATIONS.—It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of any insured bank in default with respect to which a bridge bank is chartered, especially creditworthy farmers, small businesses, and households, the Corporation should—

"(i) continue to honor commitments made by the bank in default to creditworthy customers, and

"(ii) not interrupt or terminate adequately secured loans which are transferred under subparagraph (A) and are being repaid by the debtor in accordance with the terms of the loan instrument.

"(4) POWERS OF BRIDGE BANKS.—Each bridge bank chartered under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, a national bank, except that—

"(A) the Corporation may—

"(i) remove the interim directors and directors of a bridge bank;

"(ii) fix the compensation of members of the interim board of directors and the board of directors and senior management, as determined by the Corporation in its discretion, of a bridge bank; and

"(iii) waive any requirement established under section 5145, 5146, 5147, 5148, or 5149 of the Revised Statutes (relating to directors of national banks) or section 31 of the Banking Act of 1933 which would otherwise be applicable with respect to directors of a bridge bank by operation of paragraph (2)(B);

"(B) the Corporation may indemnify the representatives for purposes of paragraph (1)(B) and the interim directors, directors, officers, employees, and agents of a bridge bank on such terms as the Corporation determines to be appropriate;

"(C) no requirement under section 5138 of the Revised Statutes or any other provision of law relating to the capital of a national bank shall apply with respect to a bridge bank;

"(D) the Comptroller of the Currency may establish a limitation on the extent to which any person may become indebted to a bridge bank without regard to the amount of the bridge bank's capital or surplus;

"(E)(i) the board of directors of a bridge bank shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Corporation;

"(ii) the board of directors of a bridge bank may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Corporation;

"(F) a bridge bank shall not be required to purchase stock of any Federal Reserve bank;

"(G) the Comptroller of the Currency shall waive any requirement for a fidelity bond with respect to a bridge bank at the request of the Corporation;

"(H) any judicial action to which a bridge bank becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a bank in default shall be stayed from further proceedings for a period of up to 45 days at the request of the bridge bank;

"(I) no agreement which tends to diminish or defeat the right, title or interest of a bridge bank in any asset of an insured bank in default acquired by it shall be valid against the bridge bank unless such agreement—

"(i) is in writing,

"(ii) was executed by such insured bank in default and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by such insured bank in default,

"(iii) was approved by the board of directors of such insured bank in default or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(iv) has been, continuously from the time of its execution, an official record of such insured bank in default;

"(J) notwithstanding section 13(e)(2), any agreement relating to an extension of credit between a Federal home loan bank or Federal Reserve bank and any insured depository institution which was executed before the extension of credit by such bank to such depository institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (I); and

"(K) except with the prior approval of the Corporation, a bridge bank may not, in any transaction or series of transactions, issue capital stock or be a party to any merger, consolidation, disposition of assets or liabilities, sale or exchange of capital stock, or similar transaction, or change its charter.

"(5) CAPITAL.—

"(A) NO CAPITAL REQUIRED.—The Corporation shall not be required to— Securities.

"(i) issue any capital stock on behalf of a bridge bank chartered under this subsection; or

"(ii) purchase any capital stock of a bridge bank, except that notwithstanding any other provision of Federal or State law, the Corporation may purchase and retain capital stock of a bridge bank in such amounts and on such terms as the Corporation, in its discretion, determines to be appropriate.

"(B) OPERATING FUNDS IN LIEU OF CAPITAL.—Upon the organization of a bridge bank, and thereafter, as the Board of Directors may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Corporation may in its discretion determine, funds for the operation of the bridge bank in lieu of capital.

"(C) AUTHORITY TO ISSUE CAPITAL STOCK.—Whenever the Board of Directors determines it is advisable to do so, the

Corporation shall cause capital stock of a bridge bank to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

"(6) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A bridge bank is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a bridge bank are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a bridge bank shall not—

"(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law, or

Wages.

"(ii) receive any salary or benefits for service in any such capacity with respect to a bridge bank in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

"(7) ASSISTANCE AUTHORIZED.—The Corporation may, in its discretion, provide assistance under section 13(c) to facilitate any transaction described in clause (i), (ii), or (iii) of paragraph (10)(A) with respect to any bridge bank in the same manner and to the same extent as such assistance may be provided under such section with respect to an insured bank in default, or to facilitate a bridge bank's acquisition of any assets or the assumption of any liabilities of an insured bank in default.

"(8) ACQUISITION.—

"(A) IN GENERAL.—The responsible agency shall notify the Attorney General of any transaction involving the merger or sale of a bridge bank requiring approval under section 18(c) and if a report on competitive factors is requested within 10 days, such transaction may not be consummated before the 5th calendar day after the date of approval by the responsible agency with respect thereto. If the responsible agency has found that it must act immediately to prevent the probable failure of 1 of the banks involved, the preceding sentence does not apply and the transaction may be consummated immediately upon approval by the agency.

Securities.

"(B) BY OUT-OF-STATE HOLDING COMPANY.—Any depository institution, including an out-of-State depository institution, or any out-of-State depository institution holding company may acquire and retain the capital stock or assets of, or otherwise acquire and retain a bridge bank if the bridge bank at any time had assets aggregating $500,000,000 or more, as determined by the Corporation on the basis of the bridge bank's reports of condition or on the basis of the last available reports of condition of any insured bank in default, which institution has been acquired, or whose assets have been acquired, by the bridge bank. The acquiring

entity may acquire the bridge bank only in the same manner and to the same extent as such entity may acquire an insured bank in default under section 13(f)(2).

"(9) DURATION OF BRIDGE BANK.—Subject to paragraphs (11) and (13), the status of a bridge bank as such shall terminate at the end of the 2-year period following the date it was granted a charter. The Board of Directors may, in its discretion, extend the status of the bridge bank as such for 3 additional 1-year periods.

"(10) TERMINATION OF BRIDGE BANK STATUS.—The status of any bridge bank as such shall terminate upon the earliest of—

"(A) the merger or consolidation of the bridge bank with a depository institution that is not a bridge bank;

"(B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank;

"(C) the sale of 80 percent, or more, of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank;

"(D) at the election of the Corporation, either the assumption of all or substantially all of the deposits and other liabilities of the bridge bank by a depository institution holding company or a depository institution that is not a bridge bank, or the acquisition of all or substantially all of the assets of the bridge bank by a depository institution holding company, a depository institution that is not a bridge bank, or other entity as permitted under applicable law; and

"(E) the expiration of the period provided in paragraph (9), or the earlier dissolution of the bridge bank as provided in paragraph (12).

"(11) EFFECT OF TERMINATION EVENTS.—

"(A) MERGER OR CONSOLIDATION.—A bridge bank that participates in a merger or consolidation as provided in paragraph (10)(A) shall be for all purposes a national bank with all the rights, powers, and privileges thereof, and such merger or consolidation shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law.

"(B) CHARTER CONVERSION.—Following the sale of a majority of the capital stock of the bridge bank as provided in paragraph (10)(B), the Corporation may amend the charter of the bridge bank to reflect the termination of the status of the bridge bank as such, whereupon the bank shall remain a national bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

"(C) SALE OF STOCK.—Following the sale of 80 percent or more of the capital stock of a bridge bank as provided in paragraph (10)(C), the bank shall remain a national bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

"(D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS.—Following the assumption of all or substantially all of the liabilities of the bridge bank, or the sale of all or substantially all of the assets of the bridge bank, as provided in

paragraph (10)(D), at the election of the Corporation the bridge bank may retain its status as such for the period provided in paragraph (8).

"(E) EFFECT ON HOLDING COMPANIES.—A depository institution holding company acquiring a bridge bank under section 13(f), paragraph (8)(B) (or any predecessor provision), or both provisions, shall not be impaired or adversely affected by the termination of the status of a bridge bank as a result of subparagraph (A), (B), (C), or (D) of paragraph (10), and shall be entitled to the rights and privileges provided in section 13(f).

"(F) AMENDMENTS TO CHARTER.—Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (10), the charter of the resulting institution shall be amended to reflect the termination of bridge bank status, if appropriate.

"(12) DISSOLUTION OF BRIDGE BANK.—

"(A) IN GENERAL.—Notwithstanding any other provision of State or Federal law, if the bridge bank's status as such has not previously been terminated by the occurrence of an event specified in subparagraphs (A), (B), (C), or (D) of paragraph (10)—

"(i) the Board of Directors may, in its discretion, dissolve a bridge bank in accordance with this paragraph at any time; and

"(ii) the Board of Directors shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date the bridge bank was chartered, or any extension thereof, as provided in paragraph (9).

"(B) PROCEDURES.—The Comptroller of the Currency shall appoint the Corporation receiver for a bridge bank upon certification by the Board of Directors to the Comptroller of the Currency of its determination to dissolve the bridge bank. The Corporation as such receiver shall wind up the affairs of the bridge bank in conformity with the provisions of law relating to the liquidation of closed national banks. With respect to any such bridge bank, the Corporation as such receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to a receiver of any insured depository institution and notwithstanding any other provision of law in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.

"(13) MULTIPLE BRIDGE BANKS.—Subject to paragraph (1)(B)(i), the Corporation may, in the Corporation's discretion, organize 2 or more bridge banks under this subsection to assume any deposits of, assume any other liabilities of, and purchase any assets of a single bank in default.".

SEC. 215. FSLIC RESOLUTION FUND.

The Federal Deposit Insurance Act is amended by inserting after section 11 the following:

"SEC. 11A. FSLIC RESOLUTION FUND.

12 USC 1821a.

"(a) ESTABLISHED.—

"(1) IN GENERAL.—There is established a separate fund to be designated as the FSLIC Resolution Fund which shall be managed by the Corporation and separately maintained and not commingled.

"(2) TRANSFER OF FSLIC ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—Except as provided in section 21A of the Federal Home Loan Bank Act, all assets and liabilities of the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be transferred to the FSLIC Resolution Fund.

"(B) ADDITIONAL CLAIMS ON ASSETS.—The FSLIC Resolution Fund shall pay to the Savings Association Insurance Fund such amounts as are needed for administrative and supervisory expenses from the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through September 30, 1991.

"(3) SEPARATE HOLDING.—Assets and liabilities transferred to the FSLIC Resolution Fund shall be the assets and liabilities of the Fund and not of the Corporation and shall not be consolidated with the assets and liabilities of the Bank Insurance Fund, the Savings Association Insurance Fund, or the Corporation for accounting, reporting, or any other purpose.

"(b) SOURCE OF FUNDS.—The FSLIC Resolution Fund shall be funded from the following sources to the extent funds are needed in the listed priority:

"(1) Income earned on assets of the FSLIC Resolution Fund.

"(2) Liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships to the extent such funds are not required by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act or the Financing Corporation pursuant to section 21 of such Act.

"(3) Amounts borrowed by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act.

"(4) During the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on December 31, 1991, amounts assessed against Savings Association Insurance Fund members by the Corporation pursuant to section 7 which are not required by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act or by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act.

"(c) TREASURY BACKUP.—

"(1) IN GENERAL.—If the funds described in subsections (a) and (b) are insufficient to satisfy the liabilities of the FSLIC Resolution Fund, the Secretary of the Treasury shall pay to the Fund such amounts as may be necessary, as determined by the Corporation and the Secretary, for FSLIC Resolution Fund purposes.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury,

without fiscal year limitation, such sums as may be necessary to carry out this section.

"(d) LEGAL PROCEEDINGS.—Any judgment resulting from a proceeding to which the Federal Savings and Loan Insurance Corporation was a party prior to its dissolution or which is initiated against the Corporation with respect to the Federal Savings and Loan Insurance Corporation or with respect to the FSLIC Resolution Fund shall be limited to the assets of the FSLIC Resolution Fund.

"(e) TRANSFER OF NET PROCEEDS FROM SALE OF RTC ASSETS.—The FSLIC Resolution Fund shall transfer to the Resolution Funding Corporation any net proceeds from the sale of assets acquired from the Resolution Trust Corporation upon the termination of such Corporation pursuant to section 21A of the Federal Home Loan Bank Act.

"(f) DISSOLUTION.—The FSLIC Resolution Fund shall be dissolved upon satisfaction of all debts and liabilities and sale of all assets. Upon dissolution any remaining funds shall be paid into the Treasury. Any administrative facilities and supplies, including offices and office supplies, shall be transferred to the Corporation for use by and to be held as assets of the Savings Association Insurance Fund.".

SEC. 216. AMENDMENTS TO SECTION 12.

Section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822) is amended—

(1) by striking out "closed bank" each place it appears and inserting in lieu thereof "depository institution in default";

(2) by striking out subsection (a) and inserting the following:

"(a) BOND NOT REQUIRED; AGENTS; FEE.—The Corporation as receiver of an insured depository institution or branch of a foreign bank shall not be required to furnish bond and may appoint an agent or agents to assist it in its duties as such receiver. All fees, compensation, and expenses of liquidation and administration shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver."; and

(3) in subsection (d)—

(A) by striking out "as a stockholder of the depository institution in default, or of any liability of such depositor"; and

(B) by striking out "such bank" and inserting in lieu thereof "such depository institution".

SEC. 217. AMENDMENTS TO SECTION 13.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by striking out subsection (a) and inserting the following:

"(a) INVESTMENT OF CORPORATION'S FUNDS.—

"(1) AUTHORITY.—Funds held in the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund, that are not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"(2) LIMITATION.—The Corporation shall not sell or purchase any obligations described in paragraph (1) for its own account, at any one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury. The Secretary may approve a transaction or class of transactions subject to the

provisions of this paragraph under such conditions as the Secretary may determine.";

(2) in subsection (b)—

(A) by striking out "banking and checking" and "banking or checking" each place such terms appear and inserting in lieu thereof "depository";

(B) by striking out "bank" (except "Federal Reserve bank") each place such term appears and inserting in lieu thereof "depository institution";

(3) in subsection (c)—

(A) by striking out "closing" or "closed" each place such terms appear and inserting in lieu thereof "default" or "in default";

(B) by striking out "an" before "closed insured bank" each place such terms appear and inserting in lieu thereof "a";

(C) by striking out "in default insured depository institution" each place such term appears and inserting in lieu thereof "insured depository institution in default";

(D) in paragraph (2)(A)—

(i) by striking out "such insured institution" and "an insured depository institution" and inserting in lieu thereof "such other insured depository institution" and "another insured depository institution", respectively;

(ii) by inserting "any or all of the" after "the sale of"; and

(iii) by striking out "and the assumption" and inserting in lieu thereof "or the assumption of any or all";

(E) by adding at the end of paragraph (2) the following:

"(C) Any action to which the Corporation is or becomes a party by acquiring any asset or exercising any other authority set forth in this section shall be stayed for a period of 60 days at the request of the Corporation.";

(F) in paragraph (3), by striking out "section 13(f) of this Act" and inserting in lieu thereof "subsection (f) or (k) of this section";

(G) in paragraph (4)—

(i) by striking out "banking" and inserting in lieu thereof "depository"; and

(ii) by inserting at the end of subparagraph (A) the following: "In calculating the cost of assistance, the Corporation shall include (i) the immediate and long-term obligations of the Corporation with respect to such assistance, including contingent liabilities, and (ii) the Federal tax revenues foregone by the Government, to the extent reasonably ascertainable."; and

(H) by striking out paragraph (8);

(I) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(J) by inserting after paragraph (5) the following:

"(6) The transfer of any assets or liabilities associated with any trust business of an insured depository institution in default under subparagraph (2)(A) shall be effective without any State or Federal approval, assignment, or consent with respect thereto."; and

(K) by adding at the end the following:

"(9) Payments made under this subsection shall be made—

"(A) from the Bank Insurance Fund in the case of payments to or on behalf of a member of such Fund; or

"(B) from the Savings Association Insurance Fund or from funds made available by the Resolution Trust Corporation in the case of payments to or on behalf of any Savings Association Insurance Fund member.";

(4) by striking out subsections (d) and (e) and inserting the following:

"(d) SALE OF ASSETS TO CORPORATION.—

Loans.

"(1) IN GENERAL.-Any conservator, receiver, or liquidator appointed for any insured depository institution in default, including the Corporation acting in such capacity, shall be entitled to offer the assets of such depository institutions for sale to the Corporation or as security for loans from the Corporation.

"(2) PROCEEDS.—The proceeds of every sale or loan of assets to the Corporation shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such depository institutions.

"(3) RIGHTS AND POWERS OF CORPORATION.—

"(A) IN GENERAL.—With respect to any asset acquired or liability assumed pursuant to this section, the Corporation shall have all of the rights, powers, privileges, and authorities of the Corporation as receiver under sections 11 and 15(b).

"(B) RULE OF CONSTRUCTION.—Such rights, powers, privileges, and authorities shall be in addition to and not in derogation of any rights, powers, privileges, and authorities otherwise applicable to the Corporation.

"(C) FIDUCIARY RESPONSIBILITY.—In exercising any right, power, privilege, or authority described in subparagraph (A), the Corporation shall continue to be subject to the fiduciary duties and obligations of the Corporation as receiver to claimants against the insured depository institution in receivership.

"(4) LOANS.—The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured depository institution which is now or may hereafter be in default.

"(e) AGREEMENTS AGAINST INTERESTS OF CORPORATION.—No agreement which tends to diminish or defeat the interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured depository institution, shall be valid against the Corporation unless such agreement—

"(1) is in writing,

"(2) was executed by the depository institution and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the depository institution,

"(3) was approved by the board of directors of the depository institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(4) has been, continuously, from the time of its execution, an official record of the depository institution.";

(5) in subsection (f)—

(A) by striking out "closed" and "closing" each place such terms appear (except in "closed bank") and inserting in lieu thereof "in default" or "default", respectively;

(B) by striking out "closed bank" and inserting in lieu thereof "bank in default";

(C) in paragraph (1), by inserting "savings association" after "out-of-state bank";

(D) in paragraph (2)(B)(iii), by striking out "a unanimous vote" and inserting in lieu thereof "a vote of 75 percent of";

(E) by striking out "the constitution of any State,";

(F) in paragraph (6)(A), by inserting "the offeror which made the initial lowest acceptable offer and" after "the Corporation shall permit";

(G) by adding at the end of paragraph (7) the following:

"(C) if in the opinion of the Corporation the acquisition threatens the safety and soundness of the acquirer or does not result in the future viability of the resulting depository institution.";

(H) in paragraph (8), by striking out subparagraphs (A), (B), and (D) and redesignating paragraphs (C), (E), (F), and (G) as subparagraphs (A), (B), (C), and (D), respectively;

(I) in paragraph (9)—

(i) in the paragraph heading, by striking out "NONBANK" and inserting in lieu thereof "CERTAIN";

(ii) in paragraph (9)(A), by inserting ", other than a subsidiary that is an insured depository institution," after "subsidiary" and by striking out "which is not an insured bank"; and

(iii) in paragraph (9)(B), by inserting "or an affiliate of an insured depository institution" after "intermediate holding company"; and

(J) by adding at the end thereof the following new paragraph:

"(12) ACQUISITION OF MINORITY BANK BY MINORITY BANK HOLDING COMPANY WITHOUT REGARD TO ASSET SIZE.—

"(A) IN GENERAL.—For the purpose of ensuring continued minority control of a minority-controlled bank, paragraphs (2) and (3) shall apply with respect to the acquisition of a minority-controlled bank by an out-of-State minority-controlled depository institution or depository institution holding company without regard to the fact that the total assets of such minority-controlled bank is less than $500,000,000.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MINORITY BANK.—The term 'minority bank' means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

"(I) more than 50 percent of the ownership or control of which is held by one or more minority individuals; and

"(II) more than 50 percent of the net profit or loss of which accrues to minority individuals.

"(ii) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.";

(6) in subsection (h), by striking out "a closed insured depository institution", "closing", and "insurance fund" and inserting in lieu thereof "an insured depository institution in default", "default", and "Bank Insurance Fund", respectively;

(7) in subsection (i)—

(A) by inserting "depository" before "institution" each place such term appears;

(B) in paragraph (1)(C)—

(i) by striking out "corporation" and inserting in lieu thereof "Corporation";

(ii) by striking out "chartered bank" and inserting in lieu thereof "chartered depository institution";

(iii) by inserting ", a savings association," after "State member bank"; and

(iv) by inserting "or the Director of the Office of Thrift Supervision" after "Federal Reserve System";

(C) in paragraph (2), by striking out "or insured or guaranteed under State law"; and

(D) by striking out paragraphs (10) and (12); and

(8) by adding at the end thereof the following:

"(k) EMERGENCY ACQUISITIONS.—

"(1) IN GENERAL.—

"(A) ACQUISITIONS AUTHORIZED.—

"(i) TRANSACTIONS DESCRIBED.—Notwithstanding any provision of State law, upon determining that severe financial conditions threaten the stability of a significant number of savings associations, or of savings associations possessing significant financial resources, the Corporation, in its discretion and if it determines such authorization would lessen the risk to the Corporation, may authorize—

"(I) a savings association that is eligible for assistance pursuant to subsection (c) to merge or consolidate with, or to transfer its assets and liabilities to, any other savings association or any insured bank,

"(II) any other savings association to acquire control of such savings association, or

"(III) any company to acquire control of such savings association or to acquire the assets or assume the liabilities thereof.

The Corporation may not authorize any transaction under this subsection unless the Corporation determines that the authorization will not present a substantial risk to the safety or soundness of the savings association to be acquired or any acquiring entity.

"(ii) TERMS OF TRANSACTIONS.—Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

"(iii) APPROVAL BY APPROPRIATE AGENCY.—Where otherwise required by law, transactions under this subsection must be approved by the appropriate Federal banking agency of every party thereto.

"(iv) ACQUISITIONS BY SAVINGS ASSOCIATIONS.—Any Federal savings association that acquires another savings association pursuant to clause (i) may, with the concurrence of the Director of the Office of Thrift

Supervision, hold that savings association as a subsidiary notwithstanding the percentage limitations of section 5(c)(4)(B) of the Home Owners' Loan Act.

"(v) DUAL SERVICE.—Dual service by a management official that would otherwise be prohibited under the Depository Institution Management Interlocks Act may, with the approval of the Corporation, continue for up to 10 years.

"(vi) CONTINUED APPLICABILITY OF CERTAIN STATE RESTRICTIONS.—Nothing in this subsection overrides or supersedes State laws restricting or limiting the activities of a savings association on behalf of another entity.

"(B) CONSULTATION WITH STATE OFFICIAL.—

"(i) CONSULTATION REQUIRED.—Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

"(ii) PERIOD FOR STATE RESPONSE.—The official shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) APPROVAL OVER OBJECTION OF STATE OFFICIAL.—If the official objects during such period, the Corporation may use the authority of this paragraph only by a vote of 75 percent or more of the voting members of the Board of Directors. The Corporation shall provide to the official, as soon as practicable, a written certification of its determination.

"(2) SOLICITATION OF OFFERS.—

"(A) IN GENERAL.—In considering authorizations under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the savings association.

"(B) MINORITY-CONTROLLED INSTITUTIONS.—In the case of a minority-controlled depository institution, the Corporation shall seek an offer from other minority-controlled depository institutions before seeking an offer from other persons or entities.

"(3) DETERMINATION OF COSTS.—In determining the cost of offers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers.

"(4) BRANCHING PROVISIONS.—

"(A) IN GENERAL.—If a merger, consolidation, transfer, or acquisition under this subsection involves a savings association eligible for assistance and a bank or bank holding company, a savings association may retain and operate any existing branch or branches or any other existing facilities. If the savings association continues to exist as a separate entity, it may establish and operate new branches to the same extent as any savings association that is not affiliated with a bank holding company and the home office of which is located in the same State.

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"(B) RESTRICTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), if—

"(I) a savings association described in such subparagraph does not have its home office in the State of the bank holding company bank subsidiary, and

"(II) such association does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify,

such savings association shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the Savings Association Insurance Fund member is located.

"(ii) TRANSITION PERIOD.—The Corporation, for good cause shown, may allow a savings association up to 2 years to comply with the requirements of clause (i).

"(5) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) ASSISTANCE PROPOSALS.—The Corporation shall consider proposals by Savings Association Insurance Fund members for assistance pursuant to subsection (c) before grounds exist for appointment of a conservator or receiver for such member under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) that grounds for appointment of a conservator or receiver exist or likely will exist in the future unless the member's tangible capital is increased;

"(II) that it is unlikely that the member can achieve positive tangible capital without assistance; and

"(III) that providing assistance pursuant to the member's proposal would be likely to lessen the risk to the Corporation.

"(ii) OTHER CRITERIA.—The member meets the following criteria:

"(I) Before enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the member was solvent under applicable regulatory accounting principles but had negative tangible capital.

"(II) The member's negative tangible capital position is substantially attributable to its participation in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons.

"(III) The member is a qualified thrift lender (as defined in section 10(m) of the Home Owners' Loan Act) or would be a qualified thrift lender if commercial real estate owned and nonperforming commercial loans acquired in acquisition and

merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons were excluded from the member's total assets.

"(IV) The appropriate Federal banking agency has determined that the member's management is competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(V) The member's management did not engage in insider dealing or speculative practices or other activities that jeopardized the member's safety and soundness or contributed to its impaired capital position.

"(VI) The member's offices are located in an economically depressed region.

"(B) CORPORATION CONSIDERATION OF ASSISTANCE PROPOSAL.—If a member meets the requirements of clauses (i) and (ii) of subparagraph (A), the Corporation shall consider providing direct financial assistance.

"(C) ECONOMICALLY DEPRESSED REGION DEFINED.—For purposes of this paragraph, the term 'economically depressed region' means any geographical region which the Corporation determines by regulation to be a region within which real estate values have suffered serious decline due to severe economic conditions, such as a decline in energy or agricultural values or prices.".

SEC. 218. FDIC BORROWING AUTHORITY.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) by striking out "$3,000,000,000 outstanding at any one time" and inserting in lieu thereof "$5,000,000,000 outstanding at any one time, subject to the approval of the Secretary of the Treasury"; and

(2) by adding at the end the following: "The Corporation may employ such funds for purposes of the Bank Insurance Fund or the Savings Association Insurance Fund and the borrowing shall become a liability of each such fund to the extent funds are employed therefor. There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out this section."; and

(3) by striking out "the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan" and inserting in lieu thereof the following: "an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities".

SEC. 219. EXEMPTION FROM TAXATION; LIMITATION ON BORROWING.

Section 15 of the Federal Deposit Insurance Act (12 U.S.C. 1825) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "All"; and

(2) by adding at the end the following new subsections:

"(b) OTHER EXEMPTIONS.—When acting as a receiver, the following provisions shall apply with respect to the Corporation:

"(1) The Corporation including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of such property's value, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed.

"(2) No property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation.

Taxes.

"(3) The Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

This subsection shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

"(c) LIMITATION ON BORROWING.—

"(1) COST ESTIMATE FOR OUTSTANDING OBLIGATIONS LIABILITIES.—As soon as practicable after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall estimate the aggregate cost to the Corporation for all outstanding obligations and guarantees of the Corporation which were issued, and all outstanding liabilities which were incurred, by the Corporation before such date.

"(2) ESTIMATE OF NOTES AND OTHER OBLIGATIONS REQUIRED.—Before issuing an obligation or making a guarantee, the Corporation shall estimate the cost of such obligations or guarantees.

"(3) INCLUSION OF ESTIMATES IN FINANCIAL STATEMENTS.—The Corporation shall—

"(A) reflect in its financial statements the estimates made by the Corporation under paragraphs (1) and (2) of the aggregate amount of the costs to the Corporation for outstanding obligations and other liabilities, and

"(B) make such adjustments as are appropriate in the estimate of such aggregate amount not less frequently than quarterly.

"(4) ESTIMATE OF OTHER ASSETS REQUIRED.—The Corporation shall—

"(A) estimate the market value of assets held by it as a result of case resolution activities, with a reduction for expenses expected to be incurred by the Corporation in connection with the management and sale of such assets;

"(B) reflect the amounts so estimated in its financial statements; and

"(C) make such adjustments as are appropriate of such market value not less than quarterly.

"(5) MINIMUM NET WORTH REQUIRED.—The Corporation may not issue any note or similar obligation, and may not incur any liability under a guarantee or similar obligation, with respect to either the Bank Insurance Fund or the Savings Association Insurance Fund if, after reduction for the estimated cost of the

obligation or guarantee, the net worth of the affected insurance fund would be less than 10 percent of assets.

"(6) EXCEPTION.—With the prior approval of the Secretary of the Treasury, the Corporation may issue or incur up to $5,000,000,000 in the aggregate of additional liabilities in excess of the limitations of paragraph (5). The amount which the Corporation may borrow from the Treasury under section 14 of this Act shall be reduced by the amount of additional liabilities issued or incurred under this paragraph.

"(7) NET WORTH AND ASSET VALUATION.—For the purpose of paragraph (5)—

"(A) the assets of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated based on the most recent audit of such Fund by the Comptroller General of the United States, subject to any adjustments described in paragraph (3) or (4) and taking into account any subsequent transactions; and

"(B) the net worth of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated based on the most recent audit of such Fund by the Comptroller General of the United States, subject to any adjustments described in paragraphs (3) and (4) and taking into account any subsequent transactions.

"(d) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of any obligation issued after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by the Corporation, with respect to both principal and interest, if—

"(1) the principal amount of such obligation is stated in the obligation; and

"(2) the term to maturity or the date of maturity of such obligation is stated in the obligation.".

SEC. 220. REPORTS.

(a) IN GENERAL.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended—

(1) by striking out subsection (a) and inserting the following:

"(a) ANNUAL REPORTS ON BIF, SAIF, AND THE FSLIC RESOLUTION FUND.—

"(1) IN GENERAL.—The Corporation shall annually submit a full report of its operations, activities, budget, receipts, and expenditures for the preceding 12-month period. The report shall include, with respect to the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, an analysis by the Corporation of—

"(A) the current financial condition of each such fund;

"(B) the purpose, effect, and estimated cost of each resolution action taken for an insured depository institution during the preceding year;

"(C) the extent to which the actual costs of assistance provided to, or for the benefit of, an insured depository institution during the preceding year exceeded the estimated costs of such assistance reported in a previous year under paragraph (A);

"(D) the exposure of each insurance fund to changes in those economic factors most likely to affect the condition of that fund;

"(E) a current estimate of the resources needed for the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund to achieve the purposes of this Act; and

"(F) any findings, conclusions, and recommendations for legislative and administrative actions considered appropriate to future resolution activities by the Corporation.

"(2) MANNER OF SUBMISSION.—Such report shall be submitted to the President of the Senate and the Speaker of the House of Representatives, who shall cause the same to be printed for the information of Congress, and the President as soon as practicable after the first day of January each year.";

(2) by redesignating subsections (b), (c), and (d) as (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsections:

"(b) QUARTERLY REPORTS TO TREASURY.—

"(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal quarter, the Corporation shall provide to the Secretary of the Treasury a copy of the Corporation's financial operating plans and forecasts.

"(2) FINANCIAL CONDITION AND REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal quarter, the Corporation shall submit to the Secretary of the Treasury a copy of the report of the Corporation's financial condition as of the end of such fiscal quarter and the results of the Corporation's operations during such fiscal quarter.

"(3) ITEMS TO BE INCLUDED.—The plans, forecasts, and reports required under this subsection shall reflect the estimates required to be made under section 15(b) of the liabilities and obligations of the Corporation described in such section.

"(4) RULE OF CONSTRUCTION.—The requirement to provide plans, forecasts, and reports to the Secretary of the Treasury under this subsection may not be construed as implying any obligation on the part of the Corporation to obtain the consent or approval of such Secretary with respect to such plans, forecasts, and reports.

"(c) REPORTS TO OMB.—

"(1) FINANCIAL INFORMATION.—The Corporation shall continue to provide to the Director of the Office of Management and Budget financial information consistent with that contained in the reports that were being provided to the Director immediately prior to the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(2) FINANCIAL OPERATING PLANS AND FORECASTS.—The Corporation shall also provide to the Director copies of the Corporation's financial operating plans and forecasts as prepared by the Corporation in the ordinary course of its operations, and copies of the quarterly reports of the Corporation's financial condition and results of operations as prepared by the Corporation in the ordinary course of its operations.

"(3) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Corporation to consult with or obtain the consent or approval of the Director with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or (2) or any jurisdic-

tion or oversight over the affairs or operations of the Corporation.

"(d) AUDIT.—

"(1) AUDIT REQUIRED.—The Comptroller General shall audit annually the financial transactions of the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards.

"(2) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, or by an independent certified public accountant retained to audit the Fund's financial statements, shall be made available to the Comptroller General.".

(b) SPECIFIC REPORTS.—

(1) RISK-BASED ASSESSMENTS.— 12 USC 1827 note.

(A) REPORT REQUIRED.—The Federal Deposit Insurance Corporation shall study the establishment of premium assessment categories related to types of risk to the insurance funds and shall report its recommendations to the Congress not later than January 1, 1991. If the Corporation should recommend the establishment of such a risk-based assessment plan, it shall also provide a timetable and plan for implementation.

(B) CONGRESSIONAL RESPONSE.—Not later than 180 days after receipt by the Congress of the report required under subparagraph (A) and the accompanying plan and timetable, the Congress shall make a recommendation to the Chairperson of the Board of Directors regarding the disposition of such plan and timetable.

(2) STUDY OF DEPOSIT INSURANCE PASS-THROUGH.—Not later than 6 months after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing its findings and recommendations relating to the pass-through of deposit insurance either to individual investors in unit investment trust funds or to individual participants in pension or to profit sharing plans qualified under section 401 of the Internal Revenue Code of 1986. Such report shall also contain the Corporation's assessment of the potential effects of broadening deposit insurance coverage on the safety of the insurance funds and the operation of capital markets.

(3) REPORT ON DIRECTORS' AND OFFICERS' LIABILITY INSURANCE.—

(A) STUDY.—The Federal Deposit Insurance Corporation shall, together with the Secretary of the Treasury and the Attorney General, conduct a comprehensive study of directors' and officers' liability insurance and depository institution bonds, and the availability of such insurance for directors and officers of insured depository institutions. The study shall include—

(i) consideration of State laws limiting liability for directors and officers;

(ii) the effect of contractual provisions limiting insurance coverage when an institution is placed in receivership or conservatorship;

(iii) provisions limiting coverage when a claim is made by the Federal Deposit Insurance Corporation; and

(iv) provisions limiting claims made by one insured against another insured.

In addition, the study shall consider the need for such insurance or bonds and the effect any change in any of the above noted conditions or terms may have on the future availability of such insurance, and the ability of depository institutions to attract qualified officers and directors.

(B) REPORT.—Not later than 6 months after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal Deposit Insurance Corporation, together with the Secretary of the Treasury and the Attorney General, shall report the findings from the study under subparagraph (A) to the Congress, together with legislative recommendations, if appropriate.

SEC. 221. REGULATIONS GOVERNING INSURED DEPOSITORY INSTITUTIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) by striking out "(a)" and the 1st 2 sentences of subsection (a) and inserting the following:

"(a) INSURANCE LOGO.—

"(1) INSURED SAVINGS ASSOCIATIONS.—Each insured savings association shall display at each place of business maintained by such association a sign containing only the following items:

"(A) A statement that insured deposits are backed by the full faith and credit of the United States Government.

"(B) A statement that deposits are federally insured to $100,000.

"(C) The symbol of an eagle.

The sign shall not contain any reference to a Government agency and shall accord each item substantially equal prominence.

"(2) INSURED BANKS.—Not later than 30 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, each insured bank shall display at each place of business maintained by such bank one of the following:

"(A) The sign required to be displayed by insured banks under regulations prescribed by the Corporation in effect on January 1, 1989.

"(B) The sign prescribed under paragraph (1).

"(3) REGULATIONS.—The Corporation shall prescribe regulations to carry out the purposes of this subsection, including regulations governing the manner of display or use of such signs, except that the size of the sign prescribed under paragraph (1) shall be similar to that prescribed under paragraph (2)(A). Initial regulations under this subsection shall be prescribed on the date of enactment of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989.";

(2) in subsection (c)—

(A) in paragraph (2), by striking out subparagraph (C) and inserting the following:

"(C) the Corporation if the acquiring, assuming, or resulting bank is to be a State nonmember insured bank (except a District bank or a savings bank supervised by the Director of the Office of Thrift Supervision); and

"(D) the Director of the Office of Thrift Supervision if the acquiring, assuming, or resulting institution is to be a savings association.";

(B) by striking out paragraph (12);

(C) in paragraphs (3), (4), (6), (7), and (9), by inserting after the word "bank" or "banks" each time it appears, the words "or savings association" or "or savings associations", respectively; and

(D) in paragraph (3), by striking out "failure" and inserting in lieu thereof "default";

(3) in subsection (i)(2)—

(A) by striking out "insured bank" and inserting in lieu thereof "insured Federal depository institution";

(B) by striking out "insured State bank" and inserting in lieu thereof "insured State depository institution";

(C) by striking out the period at the end of subpargraph (C) and inserting in lieu thereof "; and";

(D) by inserting after subparagraph (C) the following new subparagraph:

"(D) the Director of the Office of Thrift Supervision if the resulting institution is to be an insured State savings association.";

(E) in paragraph (4)(D), by inserting "and fitness" after "character"; and

(F) by striking out paragraph (5); and

(4) by adding at the end the following:

"(m) ACTIVITIES OF SAVINGS ASSOCIATIONS AND THEIR SUBSIDIARIES.—

"(1) PROCEDURES.—When an insured savings association establishes or acquires a subsidiary or when an insured savings association elects to conduct any new activity through a subsidiary that the insured savings association controls, the insured savings association—

"(A) shall notify the Corporation and the Director of the Office of Thrift Supervision not less than 30 days prior to the establishment, or acquisition, of any such subsidiary, and not less than 30 days prior to the commencement of any such activity, and in either case shall provide at that time such information as each such agency may, by regulation, require; and

"(B) shall conduct the activities of the subsidiary in accordance with regulations and orders of the Director of the Office of Thrift Supervision.

"(2) ENFORCEMENT POWERS.—With respect to any subsidiary of an insured savings association:

"(A) the Corporation and the Director of the Office of Thrift Supervision shall each have, with respect to such subsidiary, the respective powers that each has with respect to the insured savings association pursuant to this section or section 8; and

"(B) the Director of the Office of Thrift Supervision may determine, after notice and opportunity for hearing, that the continuation by the insured savings association of its

ownership or control of, or its relationship to, the subsidiary—

"(i) constitutes a serious risk to the safety, soundness, or stability of the insured savings association, or

"(ii) is inconsistent with sound banking principles or with the purposes of this Act.

Upon making any such determination, the Corporation or the Director of the Office of Thrift Supervision shall have authority to order the insured savings association to divest itself of control of the subsidiary. The Director of the Office of Thrift Supervision may take any other corrective measures with respect to the subsidiary, including the authority to require the subsidiary to terminate the activities or operations posing such risks, as the Director may deem appropriate.

"(3) ACTIVITIES INCOMPATIBLE WITH DEPOSIT INSURANCE.—

"(A) IN GENERAL.—The Corporation may determine by regulation or order that any specific activity poses a serious threat to the Savings Association Insurance Fund. Prior to adopting any such regulation, the Corporation shall consult with the Director of the Office of Thrift Supervision and shall provide appropriate State supervisors the opportunity o comment thereon, and the Corporation shall specifically ake such comments into consideration. Any such regulaion shall be issued in accordance with section 553 of title 5, Jnited States Code. If the Board of Directors makes such a letermination with respect to an activity, the Corporation shall have authority to order that no Savings Association Insurance Fund member may engage in the activity directly.

"(B) AUTHORITY OF DIRECTOR.—This section does not limit the authority of the Office of Thrift Supervision to issue regulations to promote safety and soundness or to enforce compliance with other applicable laws.

"(C) ADDITIONAL AUTHORITY OF FDIC TO PREVENT SERIOUS RISKS TO INSURANCE FUND.—Notwithstanding subparagraph (A), the Corporation may prescribe and enforce such regulations and issue such orders as the Corporation determines to be necessary to prevent actions or practices of savings associations that pose a serious threat to the Savings Association Insurance Fund or the Bank Insurance Fund.

"(4) 'SUBSIDIARY' DEFINED.—As used in this subsection, the term 'subsidiary' does not include an insured depository institution.

"(5) APPLICABILITY TO CERTAIN SAVINGS BANKS.—Subparagraphs (A) and (B) of paragraph (1) of this subsection do not apply to—

"(A) any Federal savings bank that was chartered prior to October 15, 1982, as a savings bank under State law, or

"(B) a savings association that acquired its principal assets from an institution that was chartered prior to October 15, 1982, as a savings bank under State law.

"(n) CALCULATION OF CAPITAL.—No appropriate Federal banking agency shall allow any insured depository institution to include an unidentifiable intangible asset in its calculation of compliance with the appropriate capital standard, if such unidentifiable intangible

asset was acquired after April 12, 1989, except to the extent permitted under section 5(t) of the Home Owners' Loan Act."

SEC. 222. ACTIVITIES OF SAVINGS ASSOCIATIONS.

The Federal Deposit Insurance Act is amended by adding at the end the following new section:

"SEC. 28. ACTIVITIES OF SAVINGS ASSOCIATIONS. 12 USC 1831e.

"(a) IN GENERAL.—On and after January 1, 1990, a savings association chartered under State law may not engage as principal in any type of activity, or in any activity in an amount, that is not permissible for a Federal savings association unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the affected deposit insurance fund; and

"(2) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(b) DIFFERENCES OF MAGNITUDE BETWEEN STATE AND FEDERAL POWERS.—Notwithstanding subsection (a)(1), if an activity (other than an activity described in section 5(c)(2)(B) of the Home Owners' Loan Act) is permissible for a Federal savings association, a savings association chartered under State law may engage as principal in that activity in an amount greater than the amount permissible for a Federal savings association if—

"(1) the Corporation has not determined that engaging in that amount of the activity poses any significant risk to the affected deposit insurance fund; and

"(2) the savings association chartered under State law is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(c) EQUITY INVESTMENTS BY STATE SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Notwithstanding subsections (a) and (b), a savings association chartered under State law may not directly acquire or retain any equity investment of a type or in an amount that is not permissible for a Federal savings association.

"(2) EXCEPTION FOR SERVICE CORPORATIONS.—Paragraph (1) does not prohibit a savings association from acquiring or retaining shares of one or more service corporations if—

"(A) the Corporation has determined that no significant risk to the affected deposit insurance fund is posed by—

"(i) the amount that the association proposes to acquire or retain, or

"(ii) the activities in which the service corporation engages; and

"(B) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any savings association to divest any equity investment the retention of which is not permissible under paragraph (1) or (2) as quickly as can be prudently done, and in any event not later than July 1, 1994.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any savings association on May 1, 1989, the savings association shall be deemed not to be in violation of the prohibition in paragraph (1) or (2) on retaining such investment so long as the savings association complies with any applicable requirement established by the Corporation pursuant to subparagraph (A) for divesting such investments.

"(d) CORPORATE DEBT SECURITIES NOT OF INVESTMENT GRADE.—

"(1) IN GENERAL.—No savings association may, directly or through a subsidiary, acquire or retain any corporate debt security not of investment grade.

"(2) EXCEPTION FOR SECURITIES HELD BY QUALIFIED AFFILIATE.—Paragraph (1) shall not apply with respect to any corporate debt security not of investment grade which is acquired and retained by any qualified affiliate of a savings association.

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any savings association or any subsidiary of any savings association to divest any corporate debt security not of investment grade the retention of which is not permissible under paragraph (1) as quickly as can be prudently done, and in any event not later than July 1, 1994.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any corporate debt security not of investment grade held by any savings association or subsidiary on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the savings association or subsidiary shall be deemed not to be in violation of the prohibition in paragraph (1) on retaining such investment so long as the association or subsidiary complies with any applicable requirement established by the Corporation pursuant to subparagraph (A) for divesting such securities.

"(4) DEFINITIONS.—For purposes of this section—

"(A) INVESTMENT GRADE.—Any corporate debt security is not of 'investment grade' unless that security, when acquired by the savings association or subsidiary, was rated in one of the 4 highest rating categories by at least one nationally recognized statistical rating organization.

"(B) QUALIFIED AFFILIATE.—The term 'qualified affiliate' means—

"(i) in the case of a stock savings association, an affiliate other than a subsidiary or an insured depository institution; and

"(ii) in the case of a mutual savings association, a subsidiary other than an insured depository institution, so long as all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital.

"(C) CERTAIN SECURITIES NOT INCLUDED.—The term 'corporate debt security not of investment grade' does not include any obligation issued or guaranteed by a corporation that may be held by a Federal savings association without limitation as to percentage of assets under subparagraphs (D), (E), or (F) of section 5(c)(1) of the Home Owners' Loan Act.

"(e) TRANSFER OF CORPORATE DEBT SECURITY NOT OF INVESTMENT GRADE IN EXCHANGE FOR A QUALIFIED NOTE.—

"(1) ACQUISITION OF NOTE.—Notwithstanding subsections (a), (b), and (c) of section 5 of the Home Owners' Loan Act and any other provision of Federal or State law governing extensions of credit by savings associations, any insured savings association, and any subsidiary of any insured savings association, that, on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, holds any corporate debt security not of investment grade may acquire a qualified note in exchange for the transfer of such security to—

"(A) any holding company which controls 80 percent or more of the shares of such insured savings association; or

"(B) any company other than an insured savings association, or any subsidiary of any insured savings association, 80 percent or more of the shares of which are controlled by such holding company,

if the conditions of paragraph (2) are met.

"(2) CONDITIONS FOR EXCHANGE OF SECURITY FOR QUALIFIED NOTE.—The conditions of this paragraph are met if—

"(A) the insured savings association was in compliance with applicable capital requirements on December 31, 1988, and the insured savings association after such date—

"(i) remains in compliance with applicable capital requirements; or

"(ii) adopts and complies with a capital plan acceptable to the Director of the Office of Thrift Supervision;

"(B) the company to which the corporate debt security not of investment grade is transferred is not a bank holding company, an insured savings association, or a direct or indirect subsidiary of such holding company or insured savings association;

"(C) before the end of the 90-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the insured savings association notifies the Director of the Office of Thrift Supervision of such association's intention to transfer the corporate debt security not of investment grade to the savings and loan holding company or the subsidiary of such holding company;

"(D) the transfer of the corporate debt security not of investment grade is completed—

"(i) before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, in the case of an insured savings association that, as of such date, is controlled by a savings and loan holding company; or

"(ii) before the end of the 2-year period beginning on such date, in the case of a savings association that is not, as of such date, a subsidiary of a savings and loan holding company;

"(E) the insured savings association receives in exchange for the corporate debt security not of investment grade the fair market value of such security;

"(F) the Director of the Office of Thrift Supervision has—

"(i) approved the transaction; and

"(ii) determined that the transfer represents a complete and effective divestiture of the corporate debt security not of investment grade and is in compliance with the provisions of this subsection; and

"(G) any gain on the sale of the corporate debt security not of investment grade is recognized, and included for applicable regulatory capital requirements, by the insured savings association only at such time and to the extent that the insured savings association receives payment of principal on the note in cash in excess of the fair market value of the transferred corporate debt security not of investment grade as carried on the accounts of the insured savings association immediately prior to the transfer.

"(3) QUALIFIED NOTE DEFINED.—The term 'qualified note' means any note that—

"(A) is at all times fully secured by the corporate debt security not of investment grade transferred in exchange for the note, or by other collateral of at least equivalent value that is acceptable to the Director of the Office of Thrift Supervision;

"(B) contains provisions acceptable to the Director of the Office of Thrift Supervision that would—

"(i) prevent any action to encumber or impair the value of the collateral referred to in subparagraph (A); and

"(ii) allow the sale of the corporate debt security not of investment grade if the proceeds of the sale are reinvested in assets of equivalent value;

"(C) is on market terms, including interest rate, which must in all cases be above the insured savings association's borrowing rate for similar term funds;

"(D) is fully repayable over a period of time not to exceed 5 years from the date of transfer;

"(E) is repaid with annual principal payments at least as large as would be necessary to repay the note within 5 years if it were on a level payment amortization schedule and the interest rate for the first year of repayment were fixed throughout the amortization period;

"(F) is fully guaranteed by each holding company of the insured savings association that acquires such note; and

"(G) is repaid in full in cash in accordance with its terms and this subsection.

"(4) FAILURE TO REPAY ON SCHEDULE.—The exemption provided by this subsection from subsections (a), (b), and (c) of section 11 of the Home Owners' Loan Act any other applicable provision of Federal or State law shall terminate immediately if the insured savings association or any affiliate of such association fails to comply with the terms of the qualified note or this subsection.

"(f) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(g) ACTIVITY DEFINED.—For purposes of subsections (a) and (b)—

"(1) IN GENERAL.—The term 'activity' includes acquiring or retaining any investment.

"(2) DIVESTITURE OF CERTAIN ASSETS.— Notwithstanding paragraph (1), subsections (a) and (b) shall not be construed to require a savings association to divest itself of any assets ac-

quired before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(h) DISCLOSURES BY UNINSURED SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Any savings association the deposits of which are not insured by the Corporation under this Act shall disclose clearly and conspicuously in periodic statements of account and in all advertising that the savings association's deposits are 'not federally insured'.

"(2) MANNER AND CONTENT.—The Corporation may, by regulation or order, prescribe the manner and content of the disclosure.

"(3) ENFORCEMENT.—Compliance with the requirements of this subsection, and any regulation prescribed or order issued under this subsection, shall be enforced under section 8 in the same manner and to the same extent as if the savings association were an insured State nonmember bank.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section may not be construed as limiting—

"(1) any other authority of the Corporation; or

"(2) any authority of the Director of the Office of Thrift Supervision or of a State to impose more stringent restrictions.".

SEC. 223. NONDISCRIMINATION.

Section 22 of the Federal Deposit Insurance Act (12 U.S.C. 1830) is amended to read as follows:

"SEC. 22. NONDISCRIMINATION.

"It is not the purpose of this Act to discriminate in any manner against State nonmember banks or State savings associations and in favor of national or member banks or Federal savings associations, respectively. It is the purpose of this Act to provide all banks and savings associations with the same opportunity to obtain and enjoy the benefits of this Act.".

SEC. 224. BROKERED DEPOSITS.

(a) IN GENERAL.—The Federal Deposit Insurance Act is amended by inserting after section 28 (as added by section 222 of this title) the following new section:

"SEC. 29. BROKERED DEPOSITS. 12 USC 1831f.

"(a) IN GENERAL.—A troubled institution may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

"(b) RENEWALS AND ROLLOVERS TREATED AS ACCEPTANCE OF FUNDS.—Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a).

"(c) WAIVER AUTHORITY.—The Corporation may, on a case-by-case basis and upon application by an insured depository institution, waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

"(d) LIMITED EXCEPTION FOR CERTAIN CONSERVATORSHIPS.—In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) shall not apply to

the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits—

"(1) is not an unsafe or unsound practice; and

"(2) either—

"(A) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

"(B) is consistent with the conservator's fiduciary duty to minimize the losses of the institution.

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate.

"(f) DEFINITIONS RELATING TO DEPOSIT BROKER.—

"(1) DEPOSIT BROKER.—The term 'deposit broker' means—

"(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and

"(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

"(2) EXCLUSIONS.—The term 'deposit broker' does not include—

"(A) an insured depository institution, with respect to funds placed with that depository institution;

"(B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;

"(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

"(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

"(F) the trustee of a testamentary account;

"(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

"(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

"(3) INCLUSION OF DEPOSITORY INSTITUTIONS ENGAGING IN CERTAIN ACTIVITIES.—Notwithstanding paragraph (2), the term 'deposit broker' includes any insured depository institution, and any employee of any insured depository institution, which en-

gages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions having the same type of charter in such depository institution's normal market area.

"(4) EMPLOYEE.—For purposes of this subsection, the term 'employee' means any employee—

"(A) who is employed exclusively by the insured depository institution;

"(B) whose compensation is primarily in the form of a salary;

"(C) who does not share such employee's compensation with a deposit broker; and

"(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

"(g) TROUBLED INSTITUTION DEFINED.—The term 'troubled institution' means any insured depository institution which does not meet the minimum capital requirements applicable with respect to such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to deposits accepted after the end of the 120-day period beginning on the date of the enactment of this Act. 12 USC 1831f note.

SEC. 225. CONTRACTS BETWEEN DEPOSITORY INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS, OR SERVICES.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 (as added by section 224 of this title) the following new section:

"SEC. 30. CONTRACTS BETWEEN DEPOSITORY INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS, OR SERVICES. 12 USC 1831g.

"(a) IN GENERAL.—An insured depository institution may not enter into a written or oral contract with any person to provide goods, products, or services to or for the benefit of such depository institution if the performance of such contract would adversely affect the safety or soundness of the institution.

"(b) RULEMAKING.—The Corporation shall prescribe such regulations and issue such orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of, and prevent evasions of, this section. Regulations.

"(c) ENFORCEMENT.—Any action taken by any appropriate Federal banking agency under section 8 to enforce compliance on the part of any insured depository institution with the requirements of this section may include a requirement that such institution properly reflect the transaction on its books and records.

"(d) NO PRIVATE RIGHT OF ACTION.—This section may not be construed as creating any private right of action.

"(e) STUDY.—

"(1) IN GENERAL.—The Attorney General and the Comptroller General of the United States shall jointly conduct a study on the extent to which—

"(A) insured depository institutions are entering into contracts with vendors under which venders agree to purchase stock or assets from insured depository institutions or to invest capital in or make deposits in such institutions; and

"(B) if such practices occur, the extent to which such practices are having an anticompetitive effect and should be prohibited.

"(2) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Attorney General and the Comptroller General shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (1).".

SEC. 226. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE ESTABLISHED.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 30 (as added by section 225 of this title) the following new section:

12 USC 1831h.

"SEC. 31. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—There is hereby established the Savings Association Insurance Fund Industry Advisory Committee (hereinafter referred to in this section as the 'Committee').

"(b) MEMBERSHIP.—The Committee shall consist of 18 members, appointed as follows:

"(1) 1 member elected from each Federal home loan bank district (by the members of the Board of Directors of each such bank who were elected by the members of such bank) from among individuals residing therein who are officers of insured depository institutions that are Savings Association Insurance Fund members.

"(2) 6 members appointed by the Corporation from among individuals who shall represent the public interest.

"(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

"(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

"(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

"(f) AUTHORITY OF THE COMMITTEE.—The Committee may select its Chairperson, Vice Chairperson, and Secretary, and adopt methods of procedure, and shall have power—

"(1) to confer with the Board of Directors on general and special business conditions and regulatory and other matters affecting insured financial institutions that are members of the Savings Association Insurance Fund; and

"(2) to request information, and to make recommendations, with respect to matters within the jurisdiction of the Corporation.

"(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

"(h) REPORTS.—The Committee shall submit a semiannual written report to the Committee on Banking, Finance and Urban Affairs of the House and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the

Committee for such semiannual period and contain such recommendations as the Committee considers appropriate.

"(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to Congress, under this section.

"(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

"(k) SUNSET.—The Committee shall cease to exist 10 years after the enactment of this section.".

TITLE III—SAVINGS ASSOCIATIONS

SEC. 301. AMENDMENT TO HOME OWNERS' LOAN ACT OF 1933.

The Home Owners' Loan Act of 1933 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS. 12 USC 1461.

"This Act may be cited as the 'Home Owners' Loan Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.
"Sec. 3. Director of the Office of Thrift Supervision.
"Sec. 4. Supervision of savings associations.
"Sec. 5. Federal savings associations.
"Sec. 6. Liquid asset requirements.
"Sec. 7. Applicability.
"Sec. 8. District associations.
"Sec. 9. Examination fees.
"Sec. 10. Regulation of holding companies.
"Sec. 11. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders.
"Sec. 12. Advertising.
"Sec. 13. Powers of examiners.
"Sec. 14. Separability provision.

"SEC. 2. DEFINITIONS. 12 USC 1462.

"For purposes of this Act—

"(1) DIRECTOR.—The term 'Director' means the Director of the Office of Thrift Supervision.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation.

"(3) OFFICE.—The term 'Office' means the Office of Thrift Supervision.

"(4) SAVINGS ASSOCIATION.—The term 'savings association' means a savings association, as defined in section 3 of the Federal Deposit Insurance Act, the deposits of which are insured by the Corporation.

"(5) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means a Federal savings association or a Federal savings bank chartered under section 5 of this Act.

"(6) NATIONAL BANK.—The term 'national bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(7) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

"(8) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(9) AFFILIATE.—The term 'affiliate' means any person that controls, is controlled by, or is under common control with, a savings association, except as provided in section 10.

12 USC 1462a.

"SEC. 3. DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

"(a) ESTABLISHMENT OF OFFICE.—There is established the Office of Thrift Supervision, which shall be an office in the Department of the Treasury.

"(b) ESTABLISHMENT OF POSITION OF DIRECTOR.—

"(1) IN GENERAL.—There is established the position of the Director of the Office of Thrift Supervision, who shall be the head of the Office of Thrift Supervision and shall be subject to the general oversight of the Secretary of the Treasury.

"(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary for carrying out this Act and all other laws within the Director's jurisdiction.

"(3) AUTONOMY OF DIRECTOR.—The Secretary of the Treasury may not intervene in any matter or proceeding before the Director unless otherwise provided by law.

"(c) APPOINTMENT; TERM.—

"(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) TERM.—The Director shall be appointed for a term of 5 years.

"(3) VACANCY.—A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

"(4) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

"(5) TRANSITIONAL PROVISION.—Notwithstanding paragraphs (1) and (2), the Chairman of the Federal Home Loan Bank Board on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be the Director until the date on which that individual's term as Chairman of the Federal Home Loan Bank Board would have expired.

"(d) PROHIBITION ON FINANCIAL INTERESTS.—The Director shall not have a direct or indirect financial interest in any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(e) POWERS OF THE DIRECTOR.—The Director shall have all powers which—

"(1) were vested in the Federal Home Loan Bank Board (in the Board's capacity as such) or the Chairman of such Board on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(2) were not—

"(A) transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mort-

gage Corporation pursuant to any amendment made by such Act; or

"(B) established under any provision of law repealed by such Act.

"(f) ANNUAL REPORT REQUIRED.—The Director shall make an annual report to the Congress. Such report shall include—

"(1) a description of any changes the Director has made or is considering making in the district offices of the Office, including a description of the geographic allocation of the Office's resources and personnel used to carry out examination and supervision functions; and

"(2) a description of actions taken to carry out section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(g) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Director shall fix the compensation and number of, and appoint and direct, all employees of the Office of Thrift Supervision notwithstanding section 301(f)(1) of title 31, United States Code. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States.

"(2) RATES OF BASIC PAY.—Rates of basic pay for employees of the Office may be set and adjusted by the Director without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(3) ADDITIONAL COMPENSATION AND BENEFITS.—The Director may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any Federal banking agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Director shall consult, and seek to maintain comparability with, the Federal banking agencies.

"(4) DELEGATION AUTHORITY.—

"(A) IN GENERAL.—The Director may—

"(i) designate who shall act as Director in the Director's absence; and

"(ii) delegate to any employee, representative, or agent any power of the Director.

"(B) LIMITATIONS.—Notwithstanding subparagraph (A)(ii), the Director shall not, directly or indirectly—

"(i) after October 10, 1989, delegate to any Federal home loan bank or to any officer, director, or employee of a Federal home loan bank, any power involving examining, supervising, taking enforcement action with respect to, or otherwise regulating any savings association, savings and loan holding company, or other person subject to regulation by the Director; or

"(ii) delegate the Director's authority to serve as a member of the Corporation's Board of Directors.

"(h) FUNDING THROUGH ASSESSMENTS.—The compensation of the Director and other employees of the Office and all other expenses thereof may be paid from assessments levied under this Act.

"(i) GAO AUDIT.—The Director shall make available to the Comptroller General of the United States all books and records

necessary to audit all of the activities of the Office of Thrift Supervision.

12 USC 1463.

"SEC. 4. SUPERVISION OF SAVINGS ASSOCIATIONS.

"(a) FEDERAL SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Director shall provide for the examination, safe and sound operation, and regulation of savings associations.

"(2) REGULATIONS.—The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office.

"(3) SAFE AND SOUND HOUSING CREDIT TO BE ENCOURAGED.—The Director shall exercise all powers granted to the Director under this Act so as to encourage savings associations to provide credit for housing safely and soundly.

"(b) ACCOUNTING AND DISCLOSURE.—

"(1) IN GENERAL.—The Director shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations, to be used in determining savings associations' compliance with all applicable regulations.

"(2) SPECIFIC REQUIREMENTS FOR ACCOUNTING STANDARDS.—Subject to section 5(t), the uniform accounting standards prescribed under paragraph (1) shall—

"(A) incorporate generally accepted accounting principles to the same degree that such principles are used to determine compliance with regulations prescribed by the Federal banking agencies;

"(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993; and

"(C) prior to January 1, 1994, require full compliance by savings associations with accounting standards in effect at any time before such date not later than provided under the schedule in section 563.23-3 of title 12, Code of Federal Regulations (as in effect on May 1, 1989).

"(3) AUTHORITY TO PRESCRIBE MORE STRINGENT ACCOUNTING STANDARDS.—The Director may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Director determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

"(c) STRINGENCY OF STANDARDS.—All regulations and policies of the Director governing the safe and sound operation of savings associations, including regulations and policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller of the Currency for national banks.

"(d) INVESTMENT OF CERTAIN FUNDS IN ACCOUNTS OF SAVINGS ASSOCIATIONS.—The savings accounts and share accounts of savings associations insured by the Corporation shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

"(e) PARTICIPATION BY SAVINGS ASSOCIATIONS IN LOTTERIES AND RELATED ACTIVITIES.—

"(1) PARTICIPATION PROHIBITED.—No savings association may—

"(A) deal in lottery tickets;

"(B) deal in bets used as a means or substitute for participation in a lottery;

"(C) announce, advertise, or publicize the existence of any lottery; or

"(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

"(2) USE OF FACILITIES PROHIBITED.—No savings association may permit—

"(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

"(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) DEAL IN.—The term 'deal in' includes making, taking, buying, selling, redeeming, or collecting.

"(B) LOTTERY.—The term 'lottery' includes any arrangement under which—

"(i) 3 or more persons (hereafter in this subparagraph referred to as the 'participants') advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereafter in this paragraph referred to as the 'winners') will receive by reason of those participants' advances more than the amounts those participants have advanced; and

"(ii) the identity of the winners is determined by any means which includes—

"(I) a random selection;

"(II) a game, race, or contest; or

"(III) any record or tabulation of the result of 1 or more events in which any participant has no interest except for the bearing that event has on the possibility that the participant may become a winner.

"(C) LOTTERY TICKET.—The term 'lottery ticket' includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

"(4) EXCEPTION FOR STATE LOTTERIES.—Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such a State who is charged with administering the lottery.

"(5) REGULATIONS.—The Director shall prescribe such regulations as may be necessary to provide for enforcement of this subsection and to prevent any evasion of any provision of this subsection.

"(f) FEDERALLY RELATED MORTGAGE LOAN DISCLOSURES.—A savings association may not make a federally related mortgage loan to an agent, trustee, nominee, or other person acting in a fiduciary

capacity without requiring that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the savings association. At the request of the Director, the savings association shall report to the Director the identity of such person and the nature and amount of the loan.

Reports.

"(g) PREEMPTION OF STATE USURY LAWS.—(1) Notwithstanding any State law, a savings association may charge interest on any extension of credit at a rate of not more than 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which such savings association is located or at the rate allowed by the laws of the State in which such savings association is located, whichever is greater.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such savings association would be permitted to charge in the absence of this subsection, the receiving or charging a greater rate of interest than that prescribed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the savings association taking or receiving such interest.

"(h) FORM AND MATURITY OF SECURITIES.—No savings association shall—

"(1) issue securities which guarantee a definite maturity except with the specific approval of the Director, or

"(2) issue any securities the form of which has not been approved by the Director.

12 USC 1464.

"SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.

Housing.

"(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Director is authorized, under such regulations as the Director may prescribe—

"(1) to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings associations (including Federal savings banks), and

"(2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

"(b) DEPOSITS AND RELATED POWERS.—

"(1) DEPOSIT ACCOUNTS.—

"(A) Subject to the terms of its charter and regulations of the Director, a Federal savings association may—

"(i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as 'accounts'); and

"(ii) issue passbooks, certificates, or other evidence of accounts.

"(B) A Federal savings association may not—

"(i) pay interest on a demand account; or

"(ii) permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such

overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Director, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

"(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Director so provide.

"(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the savings association's charter or by regulation of the Director. Except as authorized in writing by the Director, any Federal savings association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

"(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the Federal savings association, as the Director may by regulation provide.

"(F) A Federal savings association may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Director.

"(2) OTHER LIABILITIES.—To such extent as the Director may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Director and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock.

"(3) LOANS FROM STATE HOUSING FINANCE AGENCIES.—

"(A) IN GENERAL.—Subject to regulation by the Director but without regard to any other provision of this subsection, any Federal savings association that is in compliance with the capital standards in effect under subsection (t) may borrow funds from a State mortgage finance agency of the State in which the head office of such savings association is situated to the same extent as State law authorizes a savings association organized under the laws of such State to borrow from the State mortgage finance agency.

"(B) INTEREST RATE.—A Federal savings association may not make any loan of funds borrowed under subparagraph (A) at an interest rate which exceeds by more than 1¾ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

"(4) CREDIT CARDS.—Subject to regulations of the Director, a Federal savings association may issue credit cards. extend credit

in connection therewith, and otherwise engage in or participate in credit card operations.

"(5) MUTUAL CAPITAL CERTIFICATES.—In accordance with regulations issued by the Director, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates may be included in calculating capital for the purpose of subsection (t) to the extent permitted by the Director. The issuance of certificates under this paragraph does not constitute a change of control or ownership under this Act or any other law unless there is in fact a change in control or reorganization. Regulations relating to the issuance and sale of mutual capital certificates shall provide that such certificates—

"(A) are subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the Federal savings association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) are entitled to the payment of dividends; and

"(D) may have a fixed or variable dividend rate.

"(c) LOANS AND INVESTMENTS.—To the extent specified in regulations of the Director, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

"(1) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Without limitation as a percentage of assets, the following are permitted:

"(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.

"(B) RESIDENTIAL REAL PROPERTY LOANS.—Loans on the security of liens upon residential real property.

"(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

"(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or any agency of the United States. A savings association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

"(G) DEPOSITS.—Investments in accounts of any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(H) STATE SECURITIES.—Investments in obligations issued by any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision). A Federal savings association may not invest more than 10 percent of its capital in obligations of any one issuer, exclusive of investments in general obligations of any issuer.

"(I) PURCHASE OF INSURED LOANS.—Purchase of loans secured by liens on improved real estate which are insured or guaranteed under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, United States Code.

"(J) HOME IMPROVEMENT AND MANUFACTURED HOME LOANS.—Loans made to repair, equip, alter, or improve any residential real property, and loans made for manufactured home financing. Real property.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans insured under section 240 of the National Housing Act.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to—

"(i) financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or

"(ii) any broker or dealer registered with the Securities and Exchange Commission,

which are secured by loans, obligations, or investments in which the Federal savings association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, when made, are of a type that may be used to satisfy any liquidity requirement imposed by the Director pursuant to section 6.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act.

"(O) CERTAIN HUD INSURED OR GUARANTEED INVESTMENTS.—Loans that are secured by mortgages—

"(i) insured under title X of the National Housing Act, or

"(ii) guaranteed under title IV of the Housing and Urban Development Act of 1968, under part B of the National Urban Policy and New Community Development Act of 1970, or under section 802 of the Housing and Community Development Act of 1974.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Obligations of and loans to any State housing corporation, if—

"(i) such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act, and

"(ii) in the event of default, the holder of the obligations or loans has the right directly, or indirectly through an agent or fiduciary, to cause to be subject to

the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

"(Q) INVESTMENT COMPANIES.—A Federal savings association may invest in, redeem, or hold shares or certificates issued by any open-end management investment company which—

"(i) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, and

"(ii) the portfolio of which is restricted by such management company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in.

"(R) MORTGAGE-BACKED SECURITIES.—Investments in securities that—

"(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933; or

"(ii) are mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

"(2) LOANS OR INVESTMENTS LIMITED TO A PERCENTAGE OF ASSETS OR CAPITAL.—The following loans or investments are permitted, but only to the extent specified:

"(A) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans under this paragraph shall not exceed 10 percent of the assets of the Federal savings association.

"(B) NONRESIDENTIAL REAL PROPERTY LOANS.—

"(i) IN GENERAL.—Loans on the security of liens upon nonresidential real property. Except as provided in clause (ii), the aggregate amount of such loans shall not exceed 400 percent of the Federal savings association's capital, as determined under subsection (t).

"(ii) EXCEPTION.—The Director may permit a savings association to exceed the limitation set forth in clause (i) if the Director determines that the increased authority—

"(I) poses no significant risk to the safe and sound operation of the association, and

"(II) is consistent with prudent operating practices.

"(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations

"(C) INVESTMENTS IN PERSONAL PROPERTY.—Investments in tangible personal property, including, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale. Investments under this subparagraph may not exceed 10 percent of the assets of the Federal savings association.

"(D) CONSUMER LOANS AND CERTAIN SECURITIES.—A Federal savings association may make loans for personal, family, or household purposes, including loans reasonably incident to providing such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Director. Loans and other investments under this subparagraph may not exceed 30 percent of the assets of the Federal savings association.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT OF ASSETS.—The following loans or investments are permitted, but not to exceed 5 percent of assets of a Federal savings association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of educational expenses.

"(B) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974. No investment under this subparagraph in such real property may exceed an aggregate of 2 percent of the assets of the Federal savings association. Real property.

"(C) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection. Real property.

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Loans—

"(i) the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate; and

"(ii) with respect to which the association—

"(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

"(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party.

The aggregate amount of such investments shall not exceed the greater of the Federal savings association's capital or 5 percent of its assets.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—A Federal savings association that is in compliance with the capital standards prescribed under subsection (t) may invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings associa-

tions chartered by such State are authorized. The aggregate amount of such investments, loans, and commitments of any such Federal savings association shall not exceed one-half of 1 percent of the association's total outstanding loans or $250,000, whichever is less.

Securities.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the Federal savings association's home office is located, if such corporation's entire capital stock is available for purchase only by savings associations of such State and by Federal associations having their home offices in such State. No Federal savings association may make any investment under this subparagraph if the association's aggregate outstanding investment under this subparagraph would exceed 3 percent of the association's assets. Not less than one-half of the investment permitted under this subparagraph which exceeds 1 percent of the association's assets shall be used primarily for community, inner-city, and community development purposes.

Housing.

"(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans guaranteed under section 221 or 222 of such Act. Investments under this subparagraph shall not exceed 1 percent of the Federal savings association's assets.

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—A Federal savings association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of a Federal home loan bank. A Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 percent of the assets of such savings association.

"(5) DEFINITIONS.—As used in this subsection—

"(A) RESIDENTIAL PROPERTY.—The terms 'residential real property' or 'residential real estate' mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Director) and, combinations of homes or dwelling units and business property, involving only minor or incidental business use, or property to be improved by construction of such structures.

"(B) LOANS.—The term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

"(d) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—

"(A) ENFORCEMENT.—The Director shall have power to enforce this section, section 8 of the Federal Deposit Insurance Act, and regulations prescribed hereunder. In enforcing any provision of this section, regulations prescribed under this section, or any other law or regulation, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys. Except as otherwise provided, the Director shall be subject to suit (other than suits on claims for money damages) by any Federal savings association or director or officer thereof with respect to any matter under this section or any other applicable law, or regulation thereunder, in the United States district court for the judicial district in which the savings association's home office is located, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure. Courts, U.S.

"(B) ANCILLARY PROVISIONS.—(i) In making examinations of savings associations, examiners appointed by the Director shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term 'affiliate' has the same meaning as in section 2(b) of the Banking Act of 1933, except that the term 'member bank' in section 2(b) shall be deemed to refer to a savings association.

"(ii) In the course of any examination of any savings association, upon request by the Director, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

"(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters, laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the Director shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

"(iv) If prompt and complete access upon request is not given as required in this subsection, the Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided. Courts, U.S.

"(v) In connection with examinations of savings associations and affiliates thereof, the Director may—

"(I) administer oaths and affirmations and examine and to take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

"(II) issue subpenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Courts, U.S.

Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

"(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpenas. The Director may prescribe regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

Courts, U.S.

"(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Director in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by a savings association, or a director or officer thereof, may allow to any such party reasonable expenses and attorneys' fees. Such expenses and fees shall be paid by the savings association.

"(2) CONSERVATORSHIPS AND RECEIVERSHIPS.—

"(A) GROUNDS FOR APPOINTMENT FOR FEDERAL SAVINGS ASSOCIATIONS.—A conservator or receiver may be appointed for a Federal savings association if one or more of the following conditions exist:

"(i) insolvency in that the assets of the association are less than its obligations to its creditors and others, including its members;

"(ii) substantial dissipation of assets or earnings due to any violation or violations of law or regulations, or to any unsafe or unsound practice or practices;

"(iii) an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(iv) willful violation of a cease-and-desist order which has become final;

"(v) concealment of books, papers, records, or assets of the savings association or refusal to submit books, papers, records, or affairs of the association for inspection to any examiner or to any lawful agent of the Director;

"(vi) the association is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(vii)(I) the association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and (II) there is no reasonable prospect for the replenishment of the capital of the association without Federal assistance; or

"(viii) there is a violation or violations of laws or regulations, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the association or otherwise seriously prejudice the interests of its depositors.

"(B) ADDITIONAL GROUNDS FOR APPOINTMENT OF FEDERAL ASSOCIATIONS.—In addition to the foregoing provisions, the Director may, without any requirement of notice, hearing, or other action, appoint a conservator or receiver for a Federal savings association if—

"(i) the association, by resolution of its board of directors or of its members, consents to such appointment, or

"(ii) the association is removed from membership in any Federal home loan bank, or its status as an institution the accounts of which are insured by the Corporation is terminated.

"(C) GROUNDS FOR APPOINTMENT FOR STATE ASSOCIATIONS.—Notwithstanding any other provision of law, the Director shall have power and jurisdiction to appoint a conservator or receiver for an insured State savings association, if the Director determines that any of the following grounds for the appointment of a conservator or receiver exists:

"(i) insolvency in that the assets of the savings association are less than its obligations to its creditors and others, including its members;

"(ii) substantial dissipation of assets or earnings due to any violation or violations of law or regulations, or to any unsafe or unsound practice or practices;

"(iii) an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(iv) the association is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(v)(I) the savings association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and (II) there is no reasonable prospect for the savings association's capital to be replenished without Federal assistance; or

"(vi) there is a violation or violations of laws or regulations, or an unsafe or unsound practice or condi-

tion which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the association or otherwise seriously prejudice the interests of its depositors.

"(D) APPROVAL OF STATE OFFICIAL.—(i) The authority conferred by subparagraph (C) shall not be exercised without the written approval of the State official having jurisdiction over the insured State savings association that one or more of the grounds specified for such exercise exist.

"(ii) If such approval has not been received within 30 days of receipt of notice to the State that the Director has determined such grounds exist, and the Director has responded in writing to the State's written reasons, if any, for withholding approval, then the Director may proceed without State approval.

"(E) POWER OF APPOINTMENT; JUDICIAL REVIEW.—The Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director is authorized to appoint ex parte and without notice a conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director to remove such conservator or receiver. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

Courts, U.S.

"(F) REPLACEMENT.—The Director may, without any prior notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this subparagraph shall be removal of the conservator or receiver in office at the time of such removal.

"(G) COURT ACTION.—Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver or, except at the request of the Director, to restrain or affect the exercise of powers or functions of a conservator or receiver.

"(H) POWERS.—

"(i) IN GENERAL.—A conservator shall have all the powers of the members, the stockholders, the directors, and the officers of the association and shall be authorized to operate the association in its own name or to conserve its assets in the manner and to the extent authorized by the Director.

"(ii) FDIC OR RTC AS CONSERVATOR OR RECEIVER.—Except as provided in section 21A of the Federal Home Loan Bank Act, the Director, at the Director's discretion, may appoint the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as conservator for a savings association. The Director shall appoint only the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as receiver for a savings association for the purpose of liquidation or winding up the affairs of such savings association. The conservator or receiver so appointed shall, as such, have power to buy at its own sale. The Federal Deposit Insurance Corporation, as such conservator or receiver, shall have all the powers of a conservator or receiver, as appropriate, granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers, as appropriate, of savings associations under this Act and any other provisions of law.

"(I) DISCLOSURE REQUIREMENT FOR THOSE ACTING ON BEHALF OF CONSERVATOR.—A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of a savings association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Director may prescribe regulations for the reorganization, consolidation, liquidation, and dissolution of savings associations, for the merger of insured savings associations with insured savings associations, for savings associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. The Director may, by regulation or otherwise, provide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

"(B) FDIC OR RTC AS CONSERVATOR OR RECEIVER.—In any case where the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is the conservator or receiver, any regulations prescribed by the Director shall be consistent with any regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.

"(4) REFUSAL TO COMPLY WITH DEMAND.—Whenever a conservator or receiver appointed by the Director demands possession of the property, business, and assets of any savings association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both. Law enforcement and crime.

"(5) DEFINITIONS.—As used in this subsection, the term 'savings association' includes any savings association or former

savings association that retains deposits insured by the Corporation, notwithstanding termination of its status as an institution insured by the Corporation.

"(6) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

Regulations.

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Director shall prescribe regulations requiring savings associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF SAVINGS ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of a savings association by the Director shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Director determines that a savings association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Director,

the Director shall issue an order under section 8 of the Federal Deposit Insurance Act requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.

"(e) CHARACTER AND RESPONSIBILITY.—A charter may be granted only—

"(1) to persons of good character and responsibility,

"(2) if in the judgment of the Director a necessity exists for such an institution in the community to be served,

"(3) if there is a reasonable probability of its usefulness and success, and

"(4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions.

"(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—Each Federal savings association, upon receiving its charter, shall become automatically a member of the Federal home loan bank of the district in which it is located, or if convenience requires and the Director approves, shall become a member of a Federal home loan bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members.

"(g) PREFERRED SHARES.—[Repealed.]

"(h) DISCRIMINATORY STATE AND LOCAL TAXATION PROHIBITED.—No State, county, municipal, or local taxing authority may impose any tax on Federal savings associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

"(i) CONVERSIONS.—

(1) IN GENERAL.—Any savings association which is, or is eligible to become, a member of a Federal home loan bank may convert into a Federal savings association (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form). Such conversion shall be subject to such regulations as the Director shall prescribe. Thereafter such Federal savings association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act. Regulations.

"(2) AUTHORITY OF DIRECTOR.—(A) No savings association may convert from the mutual to the stock form, or from the stock form to the mutual form, except in accordance with the regulations of the Director.

"(B) Any aggrieved person may obtain review of a final action of the Director which approves or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of section 10(j) of this Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Director, whichever is later.

"(C) Any Federal savings association may change its designation from a Federal savings association to a Federal savings bank, or the reverse.

"(3) CONVERSION TO STATE ASSOCIATION.—(A) Any Federal savings association may convert itself into a savings association or savings bank organized pursuant to the laws of the State in which the principal office of such Federal savings association is located if—

"(i) the State permits the conversion of any savings association or savings bank of such State into a Federal savings association;

"(ii) such conversion of a Federal savings association into such a State savings association is determined—

"(I) upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal savings association is located, as required by such law for a State-chartered institution to convert itself into a Federal savings association, but in no event upon a vote of less than 51 percent of all the votes cast at such meeting, and

"(II) upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal savings association;

"(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof; and such notice shall be mailed, postage prepaid, at least 30 and not more than 60 days prior to the

date of the meeting, to the Director and to each member or stockholder of record of the Federal savings association at the member's or stockholder's last address as shown on the books of the Federal savings association;

"(iv) when a mutual savings association is dissolved after conversion, the members or shareholders of the savings association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

"(v) when a stock savings association is dissolved after conversion, the stockholders will share on an equitable basis in the assets of the association; and

"(vi) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the savings association is located.

"(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Director may impose under this Act.

"(ii) The savings association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Director for issuance by similar savings associations in such State.

"(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

"(4) SAVINGS BANK ACTIVITIES.—(A) To the extent authorized by the Director, but subject to section 18(m)(3) of the Federal Deposit Insurance Act—

"(i) any Federal savings bank chartered as such prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to October 15, 1982; and

"(ii) any Federal savings bank in existence on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

"(B) The authority conferred by this paragraph may be utilized by any Federal savings association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfather rights hereunder.

"(j) SUBSCRIPTION FOR SHARES.—[Repealed.]

"(k) DEPOSITORY OF PUBLIC MONEY.—When designated for that purpose by the Secretary of the Treasury, a savings association the deposits of which are insured by the Corporation shall be a depository of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by the Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. A savings association the deposits of which are insured by the Corporation may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality, including services in connection with the collection of taxes and other

Regulations.

obligations owed the United States, and the Secretary of the Treasury may deposit public money in any such savings association, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(l) RETIREMENT ACCOUNTS.—A Federal savings association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1986 and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code if the funds of such trust or account are invested only in savings accounts or deposits in such Federal savings association or in obligations or securities issued by such Federal savings association. All funds held in such fiduciary capacity by any Federal savings association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under this paragraph. Records.

"(m) BRANCHING.—

"(1) IN GENERAL.—

"(A) No savings association incorporated under the laws of the District of Columbia or organized in the District or doing business in the District shall establish any branch or move its principal office or any branch without the Director's prior written approval. District of Columbia.

"(B) No savings association shall establish any branch in the District of Columbia or move its principal office or any branch in the District without the Director's prior written approval.

"(2) DEFINITION.—For purposes of this subsection the term 'branch' means any office, place of business, or facility, other than the principal office as defined by the Director, of a savings association at which accounts are opened or payments are received or withdrawals are made, or any other office, place of business, or facility of a savings association defined by the Director as a branch within the meaning of such sentence.

"(n) TRUSTS.—

"(1) PERMITS.—The Director may grant by special permit to a Federal savings association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. Subject to the regulations of the Director, service corporations may invest in State or federally chartered corporations which are located in the State in which the home office of the Federal savings association is located and which are engaged in trust activities. Securities.

"(2) SEGREGATION OF ASSETS.—A Federal savings association exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under this subsection. The State banking authority involved may have access to reports of examination made by the Director insofar as such reports relate to the trust department of such association but nothing in this subsection shall be Records.

construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

"(3) PROHIBITIONS.—No Federal savings association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Director.

"(4) SEPARATE LIEN.—In the event of the failure of a Federal savings association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(5) DEPOSITS.—Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, Federal savings associations so acting shall be required to make similar deposits. Securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Federal savings associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Federal savings associations shall have power to execute such bond when so required by the laws of the State involved.

"(6) OATHS AND AFFIDAVITS.—In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(7) CERTAIN LOANS PROHIBITED.—It shall be unlawful for any Federal savings association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $50,000 or twice the amount of that person's gain from the loan, whichever is greater, or may be imprisoned not more than 5 years, or may be both fined and imprisoned, in the discretion of the court.

Law enforcement and crime.

"(8) FACTORS TO BE CONSIDERED.—In reviewing applications for permission to exercise the powers enumerated in this section, the Director may consider—

"(A) the amount of capital of the applying Federal savings association,

"(B) whether or not such capital is sufficient under the circumstances of the case,

"(C) the needs of the community to be served, and

"(D) any other facts and circumstances that seem to it proper.

The Director may grant or refuse the application accordingly, except that no permit shall be issued to any association having capital less than the capital required by State law of State

banks, trust companies, and corporations exercising such powers.

"(9) SURRENDER OF CHARTER.—(A) Any Federal savings association may surrender its right to exercise the powers granted under this subsection, and have returned to it any securities which it may have deposited with the State authorities, by filing with the Director a certified copy of a resolution of its board of directors indicating its intention to surrender its right.

"(B) Upon receipt of such resolution, the Director, if satisfied that such Federal savings association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, may in the Director's discretion, issue to such association a certificate that such association is no longer authorized to exercise the powers granted by this subsection.

"(C) Upon the issuance of such a certificate by the Director, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Director made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with State authorities, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

"(D) The Director may prescribe regulations necessary to enforce compliance with the provisions of this subsection.

"(10) REVOCATION.—(A) In addition to the authority conferred by other law, if, in the opinion of the Director, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of 5 consecutive years to exercise, the powers granted by this subsection or otherwise fails or has failed to comply with the requirements of this subsection, the Director may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

"(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(1)(B), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than 30 days and not later than 60 days after service of such notice unless the Director sets an earlier or later date at the request of any Federal savings association so served.

"(C) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Director shall find that any allegation specified in the notice of charges has been established, the Director may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers

granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

"(D) A revocation order shall become effective not earlier than the expiration of 30 days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

"(o) CONVERSION OF STATE SAVINGS BANKS.—(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank that is a Bank Insurance Fund member into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

"(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member.

"(B) The Director shall notify the Corporation of any application under this Act for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall notify the Corporation of the Director's determination with respect to such application.

"(C) Notwithstanding any other provision of law, if the Corporation determines that conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the default of a savings bank it insures or to reopen a savings bank in default that it insured, or if the Corporation determines, with the concurrence of the Director, that severe financial conditions exist that threaten the stability of a savings bank insured by the Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Corporation shall provide the Director with a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank shall be converted or chartered by the Director, pursuant to the regulations thereof, from the time the Corporation issues the certificate.

"(D) A bank may be converted under subparagraph (C) only if the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (C).

"(E)(i) Before making a determination under subparagraph (D), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of subparagraph (D).

"(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (D) only by an

affirmative vote of three-fourths of the Board of Directors. The Board of Directors shall provide the State supervisor, as soon as practicable, with a written certification of its determination.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

"(p) CONVERSIONS.—(1) Notwithstanding any other provision of law, and consistent with the purposes of this Act, the Director may authorize (or in the case of a Federal savings association, require) the conversion of any mutual savings association or Federal mutual savings bank that is insured by the Corporation into a Federal stock savings association or Federal stock savings bank, or charter a Federal stock savings association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the regulations of the Director.

"(2) Authorizations under this subsection may be made only—

"(A) if the Director has determined that severe financial conditions exist which threaten the stability of an association and that such authorization is likely to improve the financial condition of the association,

"(B) when the Corporation has contracted to provide assistance to such association under section 13 of the Federal Deposit Insurance Act, or

"(C) to assist an institution in receivership.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter. Securities.

"(q) TYING ARRANGEMENTS.—(1) A savings association may not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such savings association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

"(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

"(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

Courts, U.S.

"(3) Any person injured by a violation of paragraph (1) may bring an action in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained, and the cost of suit, including a reasonable attorney's fee. Any such action shall be brought within 4 years from the date of the occurrence of the violation.

"(4) Nothing contained in this subsection affects in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Director under this subsection shall in any manner constitute a defense to such action.

"(5) For purposes of this subsection, the term 'loan' includes obligations and extensions or advances of credit.

"(r) OUT-OF-STATE BRANCHES.—(1) No Federal savings association may establish, retain, or operate a branch outside the State in which the Federal savings association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the Federal savings association attributable to all branches of the Federal savings association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under section 7701(a)(19).

"(2) The limitations of paragraph (1) shall not apply if—

"(A) the branch results from a transaction authorized under section 13(k) of the Federal Deposit Insurance Act;

"(B) the branch was authorized for the Federal savings association prior to October 15, 1982;

"(C) the law of the State where the branch would be located would permit the branch to be established if the branch were a Federal savings association chartered by the State in which its home office is located; or

"(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

"(3) The Director, for good cause shown, may allow Federal savings associations up to 2 years to comply with the requirements of this subsection.

"(s) MINIMUM CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Director shall require all savings associations to achieve and maintain adequate capital by—

"(A) establishing minimum levels of capital for savings associations; and

"(B) using such other methods as the Director determines to be appropriate.

"(2) MINIMUM CAPITAL LEVELS MAY BE DETERMINED BY DIRECTOR CASE-BY-CASE.—The Director may, consistent with subsection (t), establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the Director determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

"(3) UNSAFE OR UNSOUND PRACTICE.—In the Director's discretion, the Director may treat the failure of any savings association to maintain capital at or above the minimum level required by the Director under this subsection or subsection (t) as an unsafe or unsound practice.

"(4) DIRECTIVE TO INCREASE CAPITAL.—

"(A) PLAN MAY BE REQUIRED.—In addition to any other action authorized by law, including paragraph (3), the Director may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the Director to submit and adhere to a plan for increasing capital which is acceptable to the Director.

"(B) ENFORCEMENT OF PLAN.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under section 8 of the Federal Deposit Insurance Act to the same extent and in the same manner as an outstanding order which was issued under section 8 of the Federal Deposit Insurance Act and has become final.

"(5) PLAN TAKEN INTO ACCOUNT IN OTHER PROCEEDINGS.—The Director may—

"(A) consider a savings association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the Director's approval for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Director; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Director determines that the proposal would adversely affect the ability of the association to comply with such plan.

"(t) CAPITAL STANDARDS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STANDARDS TO BE PRESCRIBED.—The Director shall, by regulation, prescribe and maintain uniformly applicable capital standards for savings associations. Those standards shall include—

"(i) a leverage limit;

"(ii) a tangible capital requirement; and

"(iii) a risk-based capital requirement.

"(B) COMPLIANCE.—A savings association is not in compliance with capital standards for purposes of this subsection unless it complies with all capital standards prescribed under this paragraph.

"(C) STRINGENCY.—The standards prescribed under this paragraph shall be no less stringent than the capital standards applicable to national banks.

"(D) DEADLINE FOR REGULATIONS.—The Director shall promulgate final regulations under this paragraph not later than 90 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and those regulations shall become effective not later than 120 days after the date of enactment.

"(2) CONTENT OF STANDARDS.—

"(A) LEVERAGE LIMIT.—The leverage limit prescribed under paragraph (1) shall require a savings association to maintain core capital in an amount not less than 3 percent of the savings association's total assets.

"(B) TANGIBLE CAPITAL REQUIREMENT.—The tangible capital requirement prescribed under paragraph (1) shall require a savings association to maintain tangible capital in an amount not less than 1.5 percent of the savings association's total assets.

"(C) RISK-BASED CAPITAL REQUIREMENT.—Notwithstanding paragraph (1)(C), the risk-based capital requirement prescribed under paragraph (1) may deviate from the risk-based capital standards applicable to national banks to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations under the risk-based capital requirement than would be required under the risk-based capital standards applicable to national banks.

"(3) TRANSITION RULE.—

"(A) CERTAIN QUALIFYING SUPERVISORY GOODWILL INCLUDED IN CALCULATING CORE CAPITAL.—Notwithstanding paragraph (9)(A), an eligible savings association may include qualifying supervisory goodwill in calculating core capital. The amount of qualifying supervisory goodwill that may be included may not exceed the applicable percentage of total assets set forth in the following table:

"For the following period:	The applicable percentage is:
Prior to January 1, 1992	1.500 percent
January 1, 1992–December 31, 1992	1.000 percent
January 1, 1993–December 31, 1993	0.750 percent
January 1, 1994–December 31, 1994	0.375 percent
Thereafter	0 percent

"(B) ELIGIBLE SAVINGS ASSOCIATIONS.—For purposes of subparagraph (A), a savings association is an eligible savings association so long as the Director determines that—

"(i) the savings association's management is competent;

"(ii) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

"(iii) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

"(4) SPECIAL RULES FOR PURCHASED MORTGAGE SERVICING RIGHTS.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1)(C) and (9), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the leverage limit and risk-based capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

"(B) TANGIBLE CAPITAL REQUIREMENT.—Notwithstanding paragraphs (1)(C) and (9)(C), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the tangible capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

"(C) PERCENTAGE LIMITATION PRESCRIBED BY FDIC.—Notwithstanding paragraph (1)(C) and subparagraphs (A) and (B) of this paragraph—

"(i) for the purpose of subparagraph (A), the maximum amount of purchased mortgage servicing rights that may be included in calculating capital under the leverage limit and the risk-based capital requirement prescribed under paragraph (1) may not exceed the amount that could be included if the savings association were an insured State nonmember bank; and

"(ii) for the purpose of subparagraph (B), the Corporation shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital.

"(D) QUARTERLY VALUATION.—The fair market value of purchased mortgage servicing rights shall be determined not less often than quarterly.

"(5) SEPARATE CAPITALIZATION REQUIRED FOR CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—In determining compliance with capital standards prescribed under paragraph (1), all of a savings association's investments in and extensions of credit to any subsidiary engaged in activities not permis-

sible for a national bank shall be deducted from the savings association's capital.

"(B) EXCEPTION FOR AGENCY ACTIVITIES.—Subparagraph (A) shall not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply with respect to any of the following:

"(i) MORTGAGE BANKING SUBSIDIARIES.—A savings association's investments in and extensions of credit to a subsidiary engaged solely in mortgage-banking activities.

"(ii) SUBSIDIARY INSURED DEPOSITORY INSTITUTIONS.—A savings association's investments in and extensions of credit to a subsidiary—

"(I) that is itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

"(II) that was acquired by the parent insured depository institution prior to May 1, 1989.

"(iii) CERTAIN FEDERAL SAVINGS BANKS.—Any Federal savings association existing as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(I) that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(II) that acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

"(D) TRANSITION RULE.—

"(i) INCLUSION IN CAPITAL.—Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings association's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	The applicable percentage is:
Prior to July 1, 1990	100 percent
July 1, 1990–June 30, 1991	90 percent
July 1, 1991–June 30, 1992	75 percent
July 1, 1992–June 30, 1993	60 percent
July 1, 1993–June 30, 1994	40 percent
Thereafter	0 percent

"(iii) FDIC'S DISCRETION TO PRESCRIBE LESSER PERCENTAGE.—The Corporation may prescribe by order, with respect to a particular savings association, an applicable percentage less than that provided in clause (ii) if the Corporation determines, in its sole discretion, that the use of a greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the association's being in an unsafe or unsound condition.

"(E) CONSOLIDATION OF SUBSIDIARIES NOT SEPARATELY CAPITALIZED.—In determining compliance with capital standards prescribed under paragraph (1), the assets and liabilities of each of a savings association's subsidiaries (other than any subsidiary described in subparagraph (C)(ii)) shall be consolidated with the savings association's assets and liabilities, unless all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital pursuant to subparagraph (A).

"(6) CONSEQUENCES OF FAILING TO COMPLY WITH CAPITAL STANDARDS.—

"(A) PRIOR TO JANUARY 1, 1991.—Prior to January 1, 1991, the Director—

"(i) may restrict the asset growth of any savings association not in compliance with capital standards; and

"(ii) shall, beginning 60 days following the promulgation of final regulations under this subsection, require any savings association not in compliance with capital standards to submit a plan under subsection (s)(4)(A) that—

"(I) addresses the savings association's need for increased capital;

"(II) describes the manner in which the savings association will increase its capital so as to achieve compliance with capital standards;

"(III) specifies the types and levels of activities in which the savings association will engage;

"(IV) requires any increase in assets to be accompanied by an increase in tangible capital not less in percentage amount than the leverage limit then applicable;

"(V) requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

"(VI) is acceptable to the Director.

"(B) ON OR AFTER JANUARY 1, 1991.—On or after January 1, 1991, the Director—

"(i) shall prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in subparagraph (C); and

"(ii) shall require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director (which may

include such restrictions, including restrictions on the payment of dividends and on compensation, as the Director determines to be appropriate).

"(C) LIMITED GROWTH EXCEPTION.—The Director may permit any savings association that is subject to subparagraph (B) to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities if—

"(i) the savings association obtains the Director's prior approval;

"(ii) any increase in assets is accompanied by an increase in tangible capital in an amount not less than 6 percent of the increase in assets (or, in the Director's discretion if the leverage limit then applicable is less than 6 percent, in an amount equal to the increase in assets multiplied by the percentage amount of the leverage limit);

"(iii) any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable;

"(iv) any increase in assets is invested in low-risk assets, such as first mortgage loans secured by 1- to 4-family residences and fully secured consumer loans; and

"(v) the savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

"(D) ADDITIONAL RESTRICTIONS IN CASE OF EXCESSIVE RISKS OR RATES.—The Director may restrict the asset growth of any savings association that the Director determines is taking excessive risks or paying excessive rates for deposits.

"(E) FAILURE TO COMPLY WITH PLAN, REGULATION, OR ORDER.—The Director shall treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, or order under this paragraph.

"(F) EFFECT ON OTHER REGULATORY AUTHORITY.—This paragraph does not limit any authority of the Director under other provisions of law.

"(7) EXEMPTION FROM CERTAIN SANCTIONS.—

"(A) APPLICATION FOR EXEMPTION.—Any savings association not in compliance with the capital standards prescribed under paragraph (1) may apply to the Director for an exemption from any applicable sanction or penalty for noncompliance which the Director may impose.

"(B) EFFECT OF GRANT OF EXEMPTION.—If the Director approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the Director for the savings association's failure to comply with the capital standards prescribed under paragraph (1) is the growth limitation contained in paragraph (6)(B) or paragraph (6)(C), whichever is applicable.

"(C) STANDARDS FOR APPROVAL OR DISAPPROVAL.—

"(i) APPROVAL.—The Director may approve an application for an exemption if the Director determines that—

"(I) such exemption would pose no significant risk to the affected deposit insurance fund;

"(II) the savings association's management is competent;

"(III) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

"(IV) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

"(ii) DENIAL OR REVOCATION OF APPROVAL.—The Director shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the Director determines that the association's failure to meet any capital standards prescribed under paragraph (1) is accompanied by—

"(I) a pattern of consistent losses;

"(II) substantial dissipation of assets;

"(III) evidence of imprudent management or business behavior;

"(IV) a material violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or

"(V) any other unsafe or unsound condition or activity, other than the failure to meet such capital standards.

"(D) SUBMISSION OF PLAN REQUIRED.—Any application submitted under subparagraph (A) shall be accompanied by a plan which—

"(i) meets the requirements of paragraph (6)(A)(ii); and

"(ii) is acceptable to the Director.

"(E) FAILURE TO COMPLY WITH PLAN.—The Director shall treat as an unsafe and unsound practice any material failure by any savings association which has been granted an exemption under this paragraph to comply with the provisions of any plan submitted by such association under subparagraph (D).

"(F) EXEMPTION NOT AVAILABLE WITH RESPECT TO UNSAFE OR UNSOUND PRACTICES.—This paragraph does not limit any authority of the Director under any other provision of law, including section 8 of the Federal Deposit Insurance Act, to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards prescribed under paragraph (1).

"(8) TEMPORARY AUTHORITY TO MAKE EXCEPTIONS FOR ELIGIBLE SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(C), the Director may, by order, make exceptions to the capital standards prescribed under paragraph (1) for eligible savings associations. No exception under this paragraph shall be effective after January 1, 1991.

"(B) STANDARDS FOR APPROVAL OR DISAPPROVAL.—In determining whether to grant an exception under subparagraph (A), the Director shall apply the same standards as apply to determinations under paragraph (7)(C).

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) CORE CAPITAL.—Unless the Director prescribes a more stringent definition, the term 'core capital' means core capital as defined by the Comptroller of the Currency for national banks, less any unidentifiable intangible assets, plus any purchased mortgage servicing rights excluded from the Comptroller's definition of capital but included in calculating the core capital of savings associations pursuant to paragraph (4).

"(B) QUALIFYING SUPERVISORY GOODWILL.—The term 'qualifying supervisory goodwill' means supervisory goodwill existing on April 12, 1989, amortized on a straightline basis over the shorter of—

"(i) 20 years, or

"(ii) the remaining period for amortization in effect on April 12, 1989.

"(C) TANGIBLE CAPITAL.—The term 'tangible capital' means core capital minus any intangible assets (as intangible assets are defined by the Comptroller of the Currency for national banks).

"(D) TOTAL ASSETS.—The term 'total assets' means total assets (as total assets are defined by the Comptroller of the Currency for national banks) adjusted in the same manner as total assets would be adjusted in determining compliance with the leverage limit applicable to national banks if the savings association were a national bank.

"(10) USE OF COMPTROLLER'S DEFINITIONS.—

(A) IN GENERAL.—The standards prescribed under paragraph (1) shall include all relevant substantive definitions established by the Comptroller of the Currency for national banks.

"(B) SPECIAL RULE.—If the Comptroller of the Currency has not made effective regulations defining core capital or establishing a risk-based capital standard, the Director shall use the definition and standard contained in the Comptroller's most recently published final regulations.

"(u) LIMITS ON LOANS TO ONE BORROWER.—

"(1) IN GENERAL.—Section 5200 of the Revised Statutes shall apply to savings associations in the same manner and to the same extent as it applies to national banks.

"(2) SPECIAL RULES.—

"(A) Notwithstanding paragraph (1), a savings association may make loans to one borrower under one of the following clauses:

"(i) for any purpose, not to exceed $500,000; or

"(ii) to develop domestic residential housing units, not to exceed the lesser of $30,000,000 or 30 percent of the savings association's unimpaired capital and unimpaired surplus, if—

"(I) the purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed $500,000;

"(II) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t);

"(III) the Director, by order, permits the savings association to avail itself of the higher limit provided by this clause;

"(IV) loans made under this clause to all borrowers do not, in aggregate, exceed 150 percent of the savings association's unimpaired capital and unimpaired surplus; and

"(V) such loans comply with all applicable loan-to-value requirements.

"(B) A savings association's loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith shall not exceed 50 percent of the savings association's unimpaired capital and unimpaired surplus. Real property.

"(3) AUTHORITY TO IMPOSE MORE STRINGENT RESTRICTIONS.—The Director may impose more stringent restrictions on a savings association's loans to one borrower if the Director determines that such restrictions are necessary to protect the safety and soundness of the savings association.

"(v) REPORTS OF CONDITION.—

"(1) IN GENERAL.—Each association shall make reports of conditions to the Director which shall be in a form prescribed by the Director and shall contain—

"(A) information sufficient to allow the identification of potential interest rate and credit risk;

"(B) a description of any assistance being received by the association, including the type and monetary value of such assistance;

"(C) the identity of all subsidiaries and affiliates of the association;

"(D) the identity, value, type, and sector of investment of all equity investments of the associations and subsidiaries; and

"(E) other information that the Director may prescribe.

"(2) PUBLIC DISCLOSURE.—

"(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the Director determines—

"(i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, the Savings Association Insurance Fund; or Classified information.

"(ii) that public disclosure would not otherwise be in the public interest.

"(B) Any determination made by the Director under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the Director restricts any item of information for savings institutions generally, the Director shall disclose the reason in detail in the Federal Register.

"(C) The Director's determinations under subparagraph (A) shall not be subject to judicial review.

"(3) ACCESS BY CERTAIN PARTIES.—

"(A) Notwithstanding paragraph (2), the persons described in subparagraph (B) shall not be denied access to any information contained in a report of condition, subject to reasonable requirements of confidentiality. Those requirements shall not prevent such information from being transmitted to the Comptroller General of the United States for analysis.

"(B) The following persons are described in this subparagraph for purposes of subparagraph (A):

"(i) the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and their designees; and

"(ii) the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and their designees.

"(4) FIRST TIER PENALTIES.—Any savings association which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

"(i) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The savings association shall have the burden of proving by a preponderence of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

"(5) SECOND TIER PENALTIES.—Any savings association which—

"(A) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (4) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(6) THIRD TIER PENALTIES.—If any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (5) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(7) ASSESSMENT.—Any penalty imposed under paragraph (4), (5), or (6) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section), and any such assessment (including

the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(8) HEARING.—Any savings association against which any penalty is assessed under this subsection shall be afforded a hearing if such savings association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"SEC. 6. LIQUID ASSET REQUIREMENTS. 12 USC 1465.

"(a) IN GENERAL.—The purpose of this section is to provide a means for creating effective and flexible liquidity in savings associations which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support sound mortgage credit and a more stable supply of such credit.

"(b) MAINTENANCE OF ACCOUNT.—

"(1) IN GENERAL.—Every savings association shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Director, is appropriate:

"(A) cash;

"(B) balances maintained in a Federal reserve bank or passed through a Federal home loan bank or another depository institution to a Federal reserve bank pursuant to the Federal Reserve Act; and

"(C) to such extent as the Director may approve for the purposes of this section— Securities.

"(i) time and savings deposits in Federal home loan banks, institutions which are, or are eligible to become, members thereof, and commercial banks;

"(ii) such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Director may approve;

"(iii) shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraph (A) and in clauses (i), (ii), (iv), (v), (vi), and (vii) of this subparagraph;

"(iv) liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity;

"(v) highly rated commercial paper with 270 days or less remaining until maturity;

"(vi) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934)—

"(I) that have one year or less remaining until maturity; or

"(II) that are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person

to purchase the securities within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934; and

Loans.
Real property.

"(vii) mortgage loans on the security of a first lien on residential real property, if the mortgage loans qualify as backing for mortgage-backed securities issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Association or guaranteed by the Government National Mortgage Association, and either—

"(I) the mortgage loans have one year or less remaining until maturity, or

"(II) the mortgage loans are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the loans within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934.

"(2) LIMITATION.—The requirement prescribed by the Director pursuant to this subsection (hereafter in this section referred to as the 'liquidity requirement') may not be less than 4 percent or more than 10 percent of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less. The Director shall prescribe regulations to implement the provisions of this subsection.

Regulations.

"(c) CALCULATION.—The amount of any savings association's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Director shall prescribe. The Director may prescribe different liquidity requirements, within the limitations specified herein, for different classes of savings associations, and for such purposes the Director is authorized to classify savings associations according to type, size, location, rate of withdrawals, or on such other basis or bases of differentiation as the Director may deem to be reasonably necessary or appropriate for the purposes of this section.

"(d) DEFICIENCY ASSESSMENTS.—For any deficiency in compliance with the liquidity requirements, the Director may, in the Director's discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Director but not in excess of a rate equal to the highest rate on Federal home loan bank advances of one year or less, plus 2 percent per year, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a savings association shall be paid to the Director. The Director may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the

issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

"(e) REDUCTION OR SUSPENSION.—Whenever the Director deems it advisable in order to enable a savings association to meet withdrawals or to pay obligations, the Director may, to such extent and subject to such conditions as the Director may prescribe, permit the savings association to reduce its liquidity below the minimum amount. Whenever the Director determines that conditions of national emergency or unusual economic stress exist, the Director may suspend any part or all of the liquidity requirements hereunder for such period as the Director may prescribe. Any such suspension, unless sooner terminated by its terms or by the Director, shall terminate at the expiration of 90 days next after its commencement. The preceding sentence does not prevent the Director from again exercising, before, at, or after any such termination, the authority conferred by this subsection.

"(f) REGULATING AUTHORITY.—The Director is authorized to issue such regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as the Director deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Director, shall be paid by the association.

"SEC. 7. APPLICABILITY.

Territories, U.S.
12 USC 1466.

"The provisions of this Act shall apply to the United States and to Puerto Rico, Guam, and the Virgin Islands.

"SEC. 8. DISTRICT ASSOCIATIONS.

District of Columbia.
12 USC 1466a.

"(a) IN GENERAL.—The Director shall, with respect to all incorporated or unincorporated building, building or loan, building and loan, or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings associations), have the same powers and functions as to examination, operation, and regulation as the Director has with respect to Federal savings associations.

"(b) ADDITIONAL POWERS.—Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is vested in Federal savings associations.

"(c) CHARTER AMENDMENTS.—Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, be amended in such manner and to such extent and upon such votes if any as the Director may by regulation or otherwise provide.

"(d) LIMITATION.—Nothing in this section shall cause, or permit the Director to cause, District of Columbia associations to be or become Federal savings associations, or require the Director to impose on District of Columbia associations the same regulations as are imposed on Federal savings associations.

12 USC 1467.

"SEC. 9. EXAMINATION FEES.

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) of this Act shall be assessed by the Director against each such savings association in proportion to the assets or resources of the savings association.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of any such examination.

"(c) ASSESSMENT AGAINST ASSOCIATION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(1) IN GENERAL.—Subject to paragraph (2), if any affiliate of any savings association—

"(A) refuses to pay any assessment under subsection (b); or

"(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the Director may assess such cost against, and collect such cost from, such savings association.

"(2) AFFILIATE OF MORE THAN 1 SAVINGS ASSOCIATION.—If any affiliate referred to in paragraph (1) is an affiliate of more than 1 savings association, the assessment with respect to the affiliate against, and collected from, any affiliated savings association in such proportions as the Director may prescribe.

"(d) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(1) PENALTY IMPOSED.—If any affiliate of any savings association—

"(A) refuses to permit any examiner appointed by the Director to make an examination; or

"(B) refuses to provide any information required to be disclosed in the course of any examination,

the savings association shall forfeit and pay a civil penalty of not more than $5,000 for each day that any such refusal continues.

"(2) ASSESSMENT AND COLLECTION.—Any penalty imposed under paragraph (1) shall be assessed and collected by the Director, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act.

"(e) REGULATIONS.—Only the Director may prescribe regulations with respect to—

"(1) the computation of, and the assessment for, the cost of conducting examinations pursuant to this section; and

"(2) the collection and use of such assessments and any fees under this section.

Such regulations may establish formulas to determine a fee or schedule of fees to cover the costs of examinations and also to cover the cost of processing applications, filings, notices, and requests for approvals by the Director or the Director's designee.

"(f) COLLECTION THROUGH FDIC OR FEDERAL HOME LOAN BANKS.—The Corporation or the Federal home loan banks shall, upon request of and by agreement with the Director, collect fees and assessments on behalf of the Director and be reimbursed for the actual cost of collection.

"(g) COSTS OF OTHER EXAMINATIONS.—

"(1) EXAMINATION OF FIDUCIARY ACTIVITIES.—In addition to any assessment imposed pursuant to subsection (a), the cost of conducting examinations of fiduciary activities of savings associations which exercise fiduciary powers (including savings associations or similar institutions in the District of Columbia) shall be assessed by the Director against such savings associations (or similar institutions).

"(2) EXAMINATIONS IN EXCESS OF 2 PER CALENDAR YEAR.—If any savings association or affiliate of a savings association is examined by the Director, or the Corporation, as the case may be, more than 2 times in any calendar year, the cost of conducting such additional examinations shall be assessed, in addition to any assessment imposed pursuant to subsection (a), by the Director or the Corporation, as the case may be, against such savings association or affiliate.

"(h) ADDITIONAL INFORMATION.—Any savings association and any affiliate of any savings association shall provide the Director with access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto as the Director may require.

"(i) TREATMENT OF EXAMINATION ASSESSMENTS.—

"(1) DEPOSITS.—Amounts received by the Director from assessments under this section (other than an assessment under subsection (d)(2)) or section 10(b)(4) may be deposited in the manner provided in section 5234 of the Revised Statutes with respect to assessments by the Comptroller of the Currency.

"(2) ASSESSMENTS ARE NOT GOVERNMENT FUNDS.—The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

"(3) ASSESSMENTS ARE NOT SUBJECT TO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

"(j) PROCESSING FEE.—The Director may, in the Director's sole discretion, assess against any person that submits to the Director an application, filing, notice, or request a fee to cover the cost of processing such submission.

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, within the meaning of section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office. Such fees shall be imposed in proportion of the assets or resources of the institutions. The fees may be imposed more frequently than annually at the discretion of the Director. The annual rate of such fees shall be the same for all institutions subject to such fees.

"(l) WORKING CAPITAL.—The Director is authorized to impose fees and assessments pursuant to subsections (a), (b), (e), and (k) of this section, in excess of actual expenses for any given year, to permit the Director to maintain a working capital fund. The Director shall remit to the payors of such fees and assessments any funds collected in excess of what he deems necessary to maintain such working capital fund.

"(m) USE OF FUNDS.—The Director is authorized to use the combined resources retained through fees and assessments imposed pursuant to this section to pay all direct and indirect salary and administrative expenses of the Office, including contracts and purchases of property and services, and the direct and indirect expenses of the examinations and supervisory activities of the Office.

12 USC 1467a.

"SEC. 10. REGULATION OF HOLDING COMPANIES.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—As used in this section, unless the context otherwise requires—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (l).

"(B) UNINSURED INSTITUTION.—The term 'uninsured institution' means any depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

"(C) COMPANY.—The term 'company' means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an instrumentality of the United States or any State.

"(D) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company.

"(E) MULTIPLE SAVINGS AND LOAN HOLDING COMPANY.—The term 'multiple savings and loan holding company' means any savings and loan holding company which directly or indirectly controls 2 or more savings associations.

"(F) DIVERSIFIED SAVINGS AND LOAN HOLDING COMPANY.—The term 'diversified savings and loan holding company' means any savings and loan holding company whose subsidiary savings association and related activities as permitted under paragraph (2) of subsection (c) of this section represented, on either an actual or a pro forma basis, less than 50 percent of its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year, as determined in accordance with regulations issued by the Director.

"(G) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(H) AFFILIATE.—The term 'affiliate' of a savings association means any person which controls, is controlled by, or is under common control with, such savings association.

"(I) BANK HOLDING COMPANY.—The terms 'bank holding company' and 'bank' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

"(J) ACQUIRE.—The term 'acquire' has the meaning given to such term in section 13(f)(8) of the Federal Deposit Insurance Act.

"(2) CONTROL.—For purposes of this section, a person shall be deemed to have control of—

"(A) a savings association if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association, or controls in any manner the election of a majority of the directors of such association;

"(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 percent of the capital of such other company;

"(C) a trust if the person is a trustee thereof; or

"(D) a savings association or any other company if the Director determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such association or other company.

"(3) EXCLUSIONS.—Notwithstanding any other provision of this subsection, the term 'savings and loan holding company' does not include—

"(A) any company by virtue of its ownership or control of voting shares of a savings association or a savings and loan holding company acquired in connection with the underwriting of securities if such shares are held only for such period of time (not exceeding 120 days unless extended by the Director) as will permit the sale thereof on a reasonable basis; and

"(B) any trust (other than a pension, profit-sharing, shareholders', voting, or business trust) which controls a savings association or a savings and loan holding company if such trust by its terms must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and is (i) in existence on June 26, 1967, or (ii) a testamentary trust created on or after June 26, 1967.

"(4) SPECIAL RULE RELATING TO QUALIFIED STOCK ISSUANCE.—No savings and loan holding company shall be deemed to control a savings association solely by reason of the purchase by such savings and loan holding company of shares issued by such savings association, or issued by any savings and loan holding company (other than a bank holding company) which controls such savings association, in connection with a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D), unless the acquiring savings and loan holding company, directly or indirectly, or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, owns,

controls, or holds with power to vote, or holds proxies representing, more than 15 percent of the voting shares of such savings association or holding company.

"(b) REGISTRATION AND EXAMINATION.—

"(1) IN GENERAL.—Within 90 days after becoming a savings and loan holding company, each savings and loan holding company shall register with the Director on forms prescribed by the Director, which shall include such information, under oath or otherwise, with respect to the financial condition, ownership, operations, management, and intercompany relationships of such holding company and its subsidiaries, and related matters, as the Director may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Director may extend the time within which a savings and loan holding company shall register and file the requisite information.

"(2) REPORTS.—Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file with the Director, and the regional office of the Director of the district in which its principal office is located, such reports as may be required by the Director. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Director may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Director may require.

"(3) BOOKS AND RECORDS.—Each savings and loan holding company shall maintain such books and records as may be prescribed by the Director.

"(4) EXAMINATIONS.—Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Director may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. Examination and other reports may be furnished by the Director to the appropriate State supervisory authority. The Director shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority.

"(5) AGENT FOR SERVICE OF PROCESS.—The Director may require any savings and loan holding company, or persons connected therewith if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

"(6) RELEASE FROM REGISTRATION.—The Director may at any time, upon the Director's own motion or upon application, release a registered savings and loan holding company from any registration theretofore made by such company, if the Director determines that such company no longer has control of any savings association.

"(c) HOLDING COMPANY ACTIVITIES.—

"(1) PROHIBITED ACTIVITIES.—Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary which is not a savings association shall—

"(A) engage in any activity or render any service for or on behalf of a savings association subsidiary for the purpose or with the effect of evading any law or regulation applicable to such savings association;

"(B) commence any business activity, other than the activities described in paragraph (2); or

"(C) continue any business activity, other than the activities described in paragraph (2), after the end of the 2-year period beginning on the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company subject to the limitations contained in this subparagraph.

"(2) EXEMPT ACTIVITIES.—The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not a savings association:

"(A) Furnishing or performing management services for a savings association subsidiary of such company.

"(B) Conducting an insurance agency or escrow business.

"(C) Holding, managing, or liquidating assets owned or acquired from a savings association subsidiary of such company.

"(D) Holding or managing properties used or occupied by a savings association subsidiary of such company.

"(E) Acting as trustee under deed of trust.

"(F) Any other activity—

"(i) which the Board of Governors of the Federal Reserve System, by regulation, has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956, unless the Director, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

"(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

"(G) In the case of a savings and loan holding company, purchasing, holding, or disposing of stock acquired in connection with a qualified stock issuance if the purchase of such stock by such savings and loan holding company is approved by the Director pursuant to subsection (q)(1)(D).

"(3) CERTAIN LIMITATIONS ON ACTIVITIES NOT APPLICABLE TO CERTAIN HOLDING COMPANIES.—Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

"(A) only 1 savings association, if the savings association subsidiary of such company is a qualified thrift lender (as determined under subsection (m)); or

"(B) more than 1 savings association, if—

"(i) all, or all but 1, of the savings association subsidiaries of such company were initially acquired by the company or by an individual who would be deemed to control such company if such individual were a company—

"(I) pursuant to an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act; or

"(II) pursuant to an acquisition in which assistance was continued to a savings association under

section 13(i) of the Federal Deposit Insurance Act; and

"(ii) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under subsection (m)).

"(4) PRIOR APPROVAL OF CERTAIN NEW ACTIVITIES REQUIRED.—

"(A) IN GENERAL.—No savings and loan holding company and no subsidiary which is not a savings association shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Director.

"(B) FACTORS TO BE CONSIDERED BY DIRECTOR.—In considering any application under subparagraph (A) by any savings and loan holding company or any subsidiary of any such company which is not a savings association, the Director shall consider—

"(i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);

"(ii) the managerial resources of the companies involved; and

"(iii) the adequacy of the financial resources, including capital, of the companies involved.

"(C) DIRECTOR MAY DIFFERENTIATE BETWEEN NEW AND ONGOING ACTIVITIES.—In prescribing any regulation or considering any application under this paragraph, the Director may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(D) APPROVAL OR DISAPPROVAL BY ORDER.—The approval or disapproval of any application under this paragraph by the Director shall be made in an order issued by the Director containing the reasons for such approval or disapproval.

"(5) GRACE PERIOD TO ACHIEVE COMPLIANCE.—If any savings association referred to in paragraph (3) fails to maintain the status of such association as a qualified thrift lender, the Director may allow, for good cause shown, any company that controls such association (or any subsidiary of such company which is not a savings association) up to 3 years to comply with the limitations contained in paragraph (1)(C).

"(6) SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES AFFECTED BY 1987 AMENDMENTS.—

"(A) EXCEPTION TO 2-YEAR GRACE PERIOD FOR ACHIEVING COMPLIANCE.—Notwithstanding paragraph (1)(C), any company which received approval under subsection (e) of this section to acquire control of a savings association between March 5, 1987, and August 10, 1987, shall not continue any business activity other than an activity described in paragraph (2) after August 10, 1987.

"(B) EXEMPTION FOR ACTIVITIES LAWFULLY ENGAGED IN BEFORE MARCH 5, 1987.—Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of a savings association may engage, directly or through any subsidiary (other than a savings association subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

"(C) TERMINATION OF SUBPARAGRAPH (B) EXEMPTION.—The exemption provided under subparagraph (B) for activities engaged in by any savings and loan holding company or a subsidiary of such company (which is not a savings association) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after August 10, 1987) of any of the following:

"(i) The savings and loan holding company acquires control of a bank or an additional savings association (other than a savings association acquired pursuant to section 13(c) or 13(k) of the Federal Deposit Insurance Act or section 406(f) or 408(m) of the National Housing Act).

"(ii) Any savings association subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986.

"(iii) The savings and loan holding company engages in any business activity—

"(I) which is not described in paragraph (2); and

"(II) in which it was not engaged on March 5, 1987.

"(iv) Any savings association subsidiary of the savings and loan holding company increases the number of locations from which such savings association conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act.

"(v) Any savings association subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the savings association subsidiary and the affiliate.

"(D) ORDER BY DIRECTOR TO TERMINATE SUBPARAGRAPH (B) ACTIVITY.—Any activity described in subparagraph (B) may also be terminated by the Director, after opportunity for hearing, if the Director determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

"(7) FOREIGN SAVINGS AND LOAN HOLDING COMPANY.—Notwithstanding any other provision of this section, any savings and

loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not a savings association), which controls a single savings association on August 10, 1987, shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.

"(8) EXEMPTION FOR BANK HOLDING COMPANIES.—Except for paragraph (1)(A), this subsection shall not apply to any company that is treated as a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956, or any of its subsidiaries.

"(d) TRANSACTIONS WITH AFFILIATES.—Transactions between any subsidiary savings association of a savings and loan holding company and any affiliate (of such savings association subsidiary) shall be subject to the limitations and prohibitions specified in section 11 of this Act.

"(e) ACQUISITIONS.—

"(1) IN GENERAL.—It shall be unlawful for—

"(A) any savings and loan holding company directly or indirectly, or through one or more subsidiaries or through one or more transactions—

"(i) to acquire, except with the prior written approval of the Director, the control of a savings association or a savings and loan holding company, or to retain the control of such an association or holding company acquired or retained in violation of this section as heretofore or hereafter in effect;

"(ii) to acquire, except with the prior written approval of the Director, by the process of merger, consolidation, or purchase of assets, another savings association or a savings and loan holding company, or all or substantially all of the assets of any such association or holding company;

"(iii) to acquire, by purchase or otherwise, or to retain more than 5 percent of the voting shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary, or in the case of a multiple savings and loan holding company (other than a company described in subsection (c)(8)), to so acquire or retain more than 5 percent of the voting shares of any company not a subsidiary which is engaged in any business activity other than the activities specified in subsection (c)(2). This clause shall not apply to shares of a savings association or of a savings and loan holding company—

"(I) held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(II) held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(III) held in an account solely for trading purposes;

"(IV) over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(V) acquired in securing or collecting a debt previously contracted in good faith, during the 2-

year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Director may permit if the Director determines that such an extension will not be detrimental to the public interest;

"(VI) acquired under section 408(m) of the National Housing Act or section 13(k) of the Federal Deposit Insurance Act;

"(VII) held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940, except as provided in paragraph (6);

"(VIII) acquired pursuant to a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D);

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), and (VI)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association or savings and loan holding company; or

"(iv) to acquire the control of an uninsured institution, or to retain for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and is not detrimental to the public interest;

"(B) any other company, without the prior written approval of the Director, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more savings associations, except that such approval shall not be required in connection with the control of a savings association, (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of 'savings and loan holding company' under subsection (a) of this section, or (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of a savings association for more than 3 years, vests control of that association in a newly formed holding company subject to the control of the same person or group of persons. The Director shall approve an acquisition of a savings association under this subparagraph unless the Director finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the association or the insurance risk of the Savings Association Insurance Fund or Bank Insurance Fund, and shall render a decision within 90 days after submission to the Director of the complete record on the application.

"(2) FACTORS TO BE CONSIDERED.—The Director shall not approve any acquisition under subparagraph (A)(i) or (A)(ii), or of more than one savings association under subparagraph (B) of paragraph (1) of this subsection, any acquisition of stock in connection with a qualified stock issuance, any acquisition under paragraph (4)(A), or any transaction under section 13(k)

of the Federal Deposit Insurance Act, except in accordance with this paragraph. In every case, the Director shall take into consideration the financial and managerial resources and future prospects of the company and association involved, the effect of the acquisition on the association, the insurance risk to the Savings Association Insurance Fund or the Bank Insurance Fund, and the convenience and needs of the community to be served, and shall render a decision within 90 days after submission to the Director of the complete record on the application. Before approving any such acquisition, except a transaction under section 13(k) of the Federal Deposit Insurance Act, the Director shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Director shall not approve any proposed acquisition—

"(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States, or

"(B) the effect of which in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

"(3) INTERSTATE ACQUISITIONS.—No acquisition shall be approved by the Director under this subsection which will result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling savings associations in more than one State, unless—

"(A) such company, or a savings association subsidiary of such company, is authorized to acquire control of a savings association subsidiary, or to operate a home or branch office, in the additional State or States pursuant to section 13(k) of the Federal Deposit Insurance Act;

"(B) such company controls a savings association subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

"(C) the statutes of the State in which the savings association to be acquired is located permit a savings association chartered by such State to be acquired by a savings association chartered by the State where the acquiring savings association or savings and loan holding company is located or by a holding company that controls such a State chartered savings association, and such statutes specifically authorize such an acquisition by language to that effect and not merely by implication.

"(4) ACQUISITIONS BY CERTAIN INDIVIDUALS.—

"(A) IN GENERAL.—Notwithstanding subsection (h)(2), any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, may acquire control of any savings association not a subsidiary of such

savings and loan holding company with the prior written approval of the Director.

"(B) TREATMENT OF CERTAIN HOLDING COMPANIES.—If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection (1) of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i).

"(5) ACQUISITIONS PURSUANT TO CERTAIN SECURITY INTERESTS.—This subsection and subsection (c)(2) of this section do not apply to any savings and loan holding company which acquired the control of a savings association or of a savings and loan holding company pursuant to a pledge or hypothecation to secure a loan, or in connection with the liquidation of a loan, made in the ordinary course of business. It shall be unlawful for any such company to retain such control for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and would not be detrimental to the public interest.

"(6) SHARES HELD BY INSURANCE AFFILIATES.—Shares described in clause (iii)(VII) of paragraph (1)(A) shall not be excluded for purposes of clause (iii) of such paragraph if—

"(A) all shares held under such clause (iii)(VII) by all insurance company affiliates of such savings association or savings and loan holding company in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company; or

"(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company.

"(f) DECLARATION OF DIVIDEND.—Every subsidiary savings association of a savings and loan holding company shall give the Director not less than 30 days' advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Director. Any such dividend declared within such period, or without the giving of such notice to the Director, shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

"(g) ADMINISTRATION AND ENFORCEMENT.—

"(1) IN GENERAL.—The Director is authorized to issue such regulations and orders as the Director deems necessary or appropriate to enable the Director to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

"(2) INVESTIGATIONS.—The Director may make such investigations as the Director deems necessary or appropriate to determine whether the provisions of this section, and regulations and orders thereunder, are being and have been complied with by savings and loan holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Director may administer oaths and affirmations, issue subpenas, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State. The Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which any witness or company subpenaed resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance.

Records.

"(3) PROCEEDINGS.—(A) In any proceeding under subsection (a)(2)(D) or under paragraph (5) of this section, the Director may administer oaths and affirmations, take or cause to be taken depositions, and issue subpenas. The Director may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

District of Columbia.

"(B) Any hearing provided for in subsection (a)(2)(D) or under paragraph (5) of this section shall be held in the Federal judicial district or in the territory in which the principal office of the association or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

"(4) INJUNCTIONS.—Whenever it appears to the Director that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulation or order thereunder, the Director may bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any regulation or order, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions. Upon a proper showing

an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

"(5) CEASE AND DESIST ORDERS.—(A) Notwithstanding any other provision of this section, the Director may, whenever the Director has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association and is inconsistent with the sound operation of a savings association or with the purposes of this section or section 8 of the Federal Deposit Insurance Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within 120 days or such longer period as the Director directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(B) The Director may in the Director's discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith. Except as provided in subsection (j), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

"(h) PROHIBITED ACTS.—It shall be unlawful for—

"(1) any savings and loan holding company or subsidiary thereof, or any director, officer, employee, or person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 percent of the voting shares, of such holding company or subsidiary, to hold, solicit, or exercise any proxies in respect of any voting rights in a savings association which is a mutual association;

"(2) any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, to acquire control of any savings association not a subsidiary of such savings and loan holding company, unless such acquisition is approved by the Director pursuant to subsection (e)(4); or

"(3) any individual, except with the prior approval of the Director, to serve or act as a director, officer, or trustee of, or become a partner in, any savings and loan holding company after having been convicted of any criminal offense involving dishonesty or breach of trust.

"(i) PENALTIES.—

"(1) CRIMINAL PENALTIES.—(A) Whoever knowingly violates any provision of this section, and any company which violates any regulation or order issued by the Director pursuant thereto,

shall be fined not more than $100,000 per day for each day during which the violation continues.

"(B) Any individual who knowingly violates any provision of this section shall be fined not more than $100,000 per day for each day during which the violation continues, imprisoned not more than 1 year, or both.

"(C) Whoever knowingly violates any provision of this section with intent to deceive, to defraud, or to profit significantly shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.

"(2) FALSE ENTRIES.—Every director, officer, partner, trustee, agent, or employee of a savings and loan holding company shall be subject to the same penalties for false entries in any book, report, or statement of such savings and loan holding company as are applicable to officers, agents, and employees of a savings association the accounts of which are insured by the Corporation for false entries in any books, reports, or statements of such association under section 1006 of title 18, United States Code.

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded a hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

"(4) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice

and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).

"(j) JUDICIAL REVIEW.—Any party aggrieved by an order of the Director under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code. District of Columbia.

"(k) SAVINGS CLAUSE.—Nothing contained in this section, other than any transaction approved under subsection (e)(2) of this section or section 13 of the Federal Deposit Insurance Act, shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any act, action, or conduct in violation of the antitrust laws.

"(l) TREATMENT OF FDIC INSURED STATE SAVINGS BANKS AND COOPERATIVE BANKS AS SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be a savings association for the purpose of this section, if the Director determines that such bank is a qualified thrift lender (as determined under subsection (m)).

"(2) FAILURE TO MAINTAIN QUALIFIED THRIFT LENDER STATUS.—If any savings bank which is deemed to be a savings association under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Director, such bank may not thereafter be a qualified thrift lender for a period of 5 years.

"(m) QUALIFIED THRIFT LENDER TEST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (6), any savings association shall have the status of a qualified thrift lender if—

"(A) the qualified thrift investments of such savings association equal or exceed 60 percent of the total tangible assets of such association; and

"(B) the qualified thrift investments of such savings association continue to equal or exceed 60 percent of the total tangible assets of such association on an average basis in 3 out of every 4 quarters and 2 out of every 3 years.

"(2) EXCEPTIONS GRANTED BY DIRECTOR.—Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

"(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Director determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (6)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank), or be subject to subparagraph (B).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply immediately to a savings association after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) BRANCHING.—The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings associa-

tion should have become or ceased to be a qualified thrift lender.

"(III) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(IV) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) HOLDING COMPANY REGULATION.—Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956, section 8 of the Federal Deposit Insurance Act, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

"(D) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on an average basis in 3 out of every 4 quarters and 2 out of every 3 years and thereafter remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

"(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings

Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance fund member to a Bank Insurance Fund member,

whichever is later.

"(F) SPECIAL RULE.—This paragraph shall not apply to savings associations headquartered and operating primarily in Puerto Rico or the Virgin Islands.

"(G) EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform Recovery, and Enforcement Act of 1989—

"(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

"(H) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(I) EFFECTIVE DATE.—This paragraph shall take effect upon the expiration of 1 year after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of the qualified thrift investments of a savings association, by

"(ii) the total amount of tangible assets of such savings association.

"(B) QUALIFIED THRIFT INVESTMENTS.—The term 'qualified thrift investments' means, with respect to any savings association, the sum of—

"(i) the aggregate amount of loans, equity positions, or securities held by the savings association (or any subsidiary of such association) which are related to domestic residential real estate or manufactured housing;

"(ii) the value of property used by such association or subsidiary in the conduct of the business of such association or subsidiary;

"(iii) subject to paragraph (5), the liquid assets of the type required to be maintained under this Act; and

"(iv) subject to paragraph (5), 50 percent of the dollar amount of the residential mortgage loans originated by such savings association or subsidiary and sold within 90 days of origination.

"(5) LIMITATION ON TREATMENT OF CERTAIN ASSETS AS THRIFT INVESTMENTS.—The aggregate amount of the assets described in clauses (iii) and (iv) of paragraph (4)(B) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 10 percent of the tangible assets of such association.

"(6) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during the 6-year period beginning on August 10, 1989.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

"For the following period:	The applicable percentage is:
Prior to July 1, 1991	25 percent
July 1, 1991–December 31, 1992	50 percent
January 1, 1993–June 30, 1994	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.

"(n) TYING RESTRICTIONS.—A savings and loan holding company and any of its affiliates shall be subject to section 5(q) and regulations prescribed under such section, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated savings association as if such company or affiliate were a savings association.

"(o) MUTUAL HOLDING COMPANIES.—

"(1) IN GENERAL.—A savings association operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, by the mutual association; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings association.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings association; and

"(B) in the case of an association in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws.

"(3) NOTICE TO THE DIRECTOR; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—At least 60 days prior to taking any action described in paragraph (1), a savings association seeking to establish a mutual holding company shall provide written notice to the Director. The notice shall contain such relevant information as the Director shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Director within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the savings association providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Director may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the savings association involved warrant disapproval;

"(iii) the savings association fails to furnish the information required under subparagraph (A); or

"(iv) the savings association fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a savings association may, subject to the approval of the Director, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Director pursuant to sections 5 (s) and (t) of this Act.

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons having ownership rights in the mutual association pursuant to section 5(b)(1)(B) of this Act or State law shall have the same ownership rights with respect to the mutual holding company.

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand or other accounts of—

"(i) a savings association chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of a savings association.

"(B) Acquiring a mutual association through the merger of such association into a savings association subsidiary of such holding company or an interim savings association subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a savings association.

"(D) Investing in a corporation the capital stock of which is available for purchase by a savings association under Federal law or under the law of any State where the subsidiary savings association or associations have their home offices.

"(E) Engaging in the activities described in subsection (c)(2), except subparagraph (B).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) REGULATION.—A mutual holding company shall be chartered by the Director and shall be subject to such regulations as the Director may prescribe. Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

"(8) CAPITAL IMPROVEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

"(B) ISSUANCE OF NONVOTING SHARES.—This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of law, upon—

"(i) the default of any savings association—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) MUTUAL ASSOCIATION.—The term 'mutual association' means a savings association which is operating in mutual form.

"(C) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

"(p) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—

"(1) DETERMINATION AND IMPOSITION OF RESTRICTIONS.—If the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting—

"(A) the payment of dividends by the savings association;

"(B) transactions between the savings association, the holding company, and the subsidiaries or affiliates of either; and

"(C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association.

Such directive shall be effective as a cease and desist order that has become final.

"(2) REVIEW OF DIRECTIVE.—

"(A) ADMINISTRATIVE REVIEW.—After a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

"(B) JUDICIAL REVIEW.—If the Director affirms or modifies a directive pursuant to subparagraph (A), any affected party may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph. District of Columbia.

"(q) QUALIFIED STOCK ISSUANCE BY UNDERCAPITALIZED SAVINGS ASSOCIATIONS OR HOLDING COMPANIES.—

"(1) IN GENERAL.—For purposes of this section, any issue of shares of stock shall be treated as a qualified stock issuance if the following conditions are met:

"(A) The shares of stock are issued by—

"(i) an undercapitalized savings association; or

"(ii) a savings and loan holding company which is not a bank holding company but which controls an undercapitalized savings association if, at the time of issuance, the savings and loan holding company is legally obligated to contribute the net proceeds from the issuance of such stock to the capital of an undercapitalized savings association subsidiary of such holding company.

"(B) All shares of stock issued consist of previously unissued stock or treasury shares.

"(C) All shares of stock issued are purchased by a savings and loan holding company that is registered, as of the date of purchase, with the Director in accordance with the provisions of subsection (b)(1) of this section.

"(D) Subject to paragraph (2), the Director approved the purchase of the shares of stock by the acquiring savings and loan holding company.

"(E) The entire consideration for the stock issued is paid in cash by the acquiring savings and loan holding company.

"(F) At the time of the stock issuance, each savings association subsidiary of the acquiring savings and loan holding company (other than an association acquired in a transaction pursuant to subsection (c) or (k) of section 13 of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act) has capital (after deducting any subordinated debt, intangible assets, and deferred, unamortized gains or losses) of not less than 6½ percent of the total assets of such savings association.

"(G) Immediately after the stock issuance, the acquiring savings and loan holding company holds not more than 15 percent of the outstanding voting stock of the issuing undercapitalized savings association or savings and loan holding company.

"(H) Not more than one of the directors of the issuing association or company is an officer, director, employee, or other representative of the acquiring company or any of its affiliates.

"(I) Transactions between the savings association or savings and loan holding company that issues the shares pursuant to this section and the acquiring company and any of its affiliates shall be subject to the provisions of section 11.

"(2) APPROVAL OF ACQUISITIONS.—

"(A) ADDITIONAL CAPITAL COMMITMENTS NOT REQUIRED.—The Director shall not disapprove any application for the purchase of stock in connection with a qualified stock issuance on the grounds that the acquiring savings and loan holding company has failed to undertake to make subsequent additional capital contributions to maintain the capital of the undercapitalized savings association at or above the minimum level required by the Director or any other Federal agency having jurisdiction.

"(B) OTHER CONDITIONS.—Notwithstanding subsection (a)(4), the Director may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Director determines to be appropriate, including—

"(i) a requirement that any savings association subsidiary of the acquiring savings and loan holding company limit dividends paid to such holding company for such period of time as the Director may require; and

"(ii) such other conditions as the Director deems necessary or appropriate to prevent evasions of this section.

"(C) APPLICATION DEEMED APPROVED IF NOT DISAPPROVED WITHIN 90 DAYS.—An application for approval of a purchase of stock in connection with a qualified stock issuance shall be deemed to have been approved by the Director if such application has not been disapproved by the Director before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Director.

"(3) NO LIMITATION ON CLASS OF STOCK ISSUED.—The shares of stock issued in connection with a qualified stock issuance may be shares of any class.

"(4) UNDERCAPITALIZED SAVINGS ASSOCIATION DEFINED.—For purposes of this subsection, the term 'undercapitalized savings association' means any savings association—

"(A) the assets of which exceed the liabilities of such association; and

"(B) which does not comply with one or more of the capital standards in effect under section 5(t).

"(r) PENALTY FOR FAILURE TO PROVIDE TIMELY AND ACCURATE REPORTS.—

"(1) FIRST TIER.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

"(i) fails to submit or publish any report or information required under this section or regulations prescribed by the Director, within the period of time specified by the Director; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such holding company or subsidiary shall have the burden of proving by a preponderence of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) fails to submit or publish any report or information required under this section or under regulations prescribed by the Director, within the period of time specified by the Director; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—If any savings and loan holding company or any subsidiary of such a holding company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company or subsidiary, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any savings and loan holding company or any subsidiary of such a holding company against which any penalty is assessed under this subsection shall be afforded a hearing if such savings and loan holding company or such subsidiary, as the case may be, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

12 USC 1468.

"SEC. 11. TRANSACTIONS WITH AFFILIATES; EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS

"(a) AFFILIATE TRANSACTIONS.—

"(1) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act), except that—

"(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 10(c)(2)(F)(i); and

"(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

"(2) SISTER BANK EXEMPTION MADE AVAILABLE TO SAVINGS ASSOCIATIONS.—

"(A) SAVINGS ASSOCIATIONS CONTROLLED BY BANK HOLDING COMPANIES.—Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 10(c)(8) shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

"(B) SAVINGS ASSOCIATIONS GENERALLY.—Effective on and after January 1, 1995, every savings association shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(3) AFFILIATES DESCRIBED.—Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

"(4) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the Director determines to be necessary to protect the safety and soundness of the savings association.

"(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(1) IN GENERAL.—Section 22(h) of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

"(2) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on loans or extensions of credit to any director or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the Director determines to be necessary to protect the safety and soundness of the savings association.

"(c) ADMINISTRATIVE ENFORCEMENT.—The Director may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act, as appropriate.

"SEC. 12. ADVERTISING.

12 USC 1468a.

"No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Director.

"SEC. 13. POWERS OF EXAMINERS.

12 USC 1468b.

"For the purposes of this Act, examiners appointed by the Director shall—

"(1) be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the Federal Reserve Act and title LXII of the Revised Statutes; and

"(2) have, in the exercise of functions under this Act, the same powers and privileges as are vested in such examiners by law.

"SEC. 14. SEPARABILITY PROVISION.

12 USC 1468c.

"If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.".

SEC. 302. SAVINGS PROVISIONS.

12 USC 1467a note.

Notwithstanding the amendment made by this title to section 10 of the Home Owners' Loan Act and the repeal of section 416 of the National Housing Act—

(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Director of the Office of Thrift Supervision regular and complete reports on the association's progress in meeting the association's goals under the plan; and

(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan.

SEC. 303. QUALIFIED THRIFT LENDER TEST.

12 USC 1467a.

(a) IN GENERAL.—Section 10(m) of the Home Owners' Loan Act is amended to read as follows:

"(m) QUALIFIED THRIFT LENDER TEST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (7), any savings association is a qualified thrift lender if—

"(A) the savings association's qualified thrift investments equal or exceed 70 percent of the savings association's portfolio assets; and

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets, as measured by a daily or weekly average of such qualified thrift investments and such portfolio assets, for the 2-year period beginning on July 1, 1991, and for each 2-year period thereafter.

"(2) EXCEPTIONS GRANTED BY DIRECTOR.—Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

"(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Director determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (7)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—A savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply to a savings association beginning on the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) BRANCHING.—The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a

branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

"(III) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(IV) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) HOLDING COMPANY REGULATION.—Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956, section 8 of the Federal Deposit Insurance Act, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

"(D) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) for the preceding 2-year period and remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

"(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance Fund member to a Bank Insurance Fund member,

whichever is later.

"(F) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATION SERVING TRANSIENT MILITARY PERSONNEL.—Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if—

"(i) the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and

"(ii) at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.

"(G) EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

"(H) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of a savings association's qualified thrift investments, by

"(ii) the amount of the savings association's portfolio assets.

"(B) PORTFOLIO ASSETS.—The term 'portfolio assets' means, with respect to any savings association, the total assets of the savings association, minus the sum of—

"(i) goodwill and other intangible assets;

"(ii) the value of property used by the savings association to conduct its business; and

"(iii) liquid assets of the type required to be maintained under section 6 of the Home Owners' Loan Act, in an amount not exceeding the amount equal to 10 percent of the savings association's total assets.

"(C) QUALIFIED THRIFT INVESTMENTS.—

"(i) IN GENERAL.—The term 'qualified thrift investments' means, with respect to any savings association, the assets of the savings association that are described in clauses (ii) and (iii).

"(ii) ASSETS INCLUDIBLE WITHOUT LIMIT.—The following assets are described in this clause for purposes of clause (i):

"(I) The aggregate amount of loans held by the savings association that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing.

"(II) Home-equity loans.

"(III) Securities backed by or representing an interest in mortgages on domestic residential housing or manufactured housing.

"(IV) EXISTING OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Direct or indirect obligations of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation issued in accordance with the terms of agreements entered into prior to July 1, 1989, for the 10-year period beginning on the date of issuance of such obligations.

"(V) NEW OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Obligations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, and the Resolution Trust Corporation issued in accordance with the terms of agreements entered into on or after July 1, 1989, for the 5-year period beginning on the date of issuance of such obligations.

"(iii) ASSETS INCLUDIBLE SUBJECT TO PERCENTAGE RESTRICTION.—The following assets are described in this clause for purposes of clause (i):

"(I) 50 percent of the dollar amount of the residential mortgage loans originated by such savings association and sold within 90 days of origination.

"(II) Investments in the capital stock or obligations of, and any other security issued by, any service corporation if such service corporation derives at least 80 percent of its annual gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential real estate or manufactured housing.

"(III) 200 percent of the dollar amount of loans and investments made to acquire, develop, and construct 1- to 4-family residences the purchase price of which is or is guaranteed to be not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, except that not more than 25 percent of the amount included under this subclause may consist of commercial properties related to the development if those properties are directly related to providing services to residents of the development.

"(IV) 200 percent of the dollar amount of loans for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small businesses located within any area which has been identified by the Director, in connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.

"(V) Loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (IV), and loans for the improvement and upkeep of such properties.

"(VI) Loans for personal, family, household, or educational purposes, but the dollar amount treated as qualified thrift investments under this subclause may not exceed the amount which is equal to 5 percent of the savings association's portfolio assets.

"(iv) PERCENTAGE RESTRICTION APPLICABLE TO CERTAIN ASSETS.—The aggregate amount of the assets described in clause (iii) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 15 percent of a savings association's portfolio assets.

"(v) The term 'qualified thrift investments' excludes—

"(I) except for home equity loans, that portion of any loan or investment that is used for any purpose other than those expressly qualifying under any subparagraph of clause (ii) or (iii); or

"(II) goodwill or any other intangible asset.

"(5) CONSISTENT ACCOUNTING REQUIRED.—

"(A) In determining the amount of a savings association's portfolio assets, the assets of any subsidiary of the savings association shall be consolidated with the assets of the savings association if—

"(i) Assets of the subsidiary are consolidated with the assets of the savings association in determining the savings association's qualified thrift investments; or

"(ii) Residential mortgage loans originated by the subsidiary are included pursuant to paragraph (4)(C)(iii)(I) in determining the savings association's qualified thrift investments.

"(B) In determining the amount of a savings association's portfolio assets and qualified thrift investments, consistent accounting principles shall be applied.

"(6) SPECIAL RULES FOR PUERTO RICO AND VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—

"(A) PUERTO RICO SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in Puerto Rico—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Commonwealth of Puerto Rico; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Commonwealth of Puerto Rico; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Commonwealth of Puerto Rico; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(B) VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in the Virgin Islands—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Virgin Islands; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Virgin Islands; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Virgin Islands; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Virgin Islands, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(7) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during period ending on September 30, 1995.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

"For the following period:	The applicable percentage is:
July 1, 1991–September 30, 1992	25 percent
October 1, 1992–March 31, 1994	50 percent
April 1, 1994–September 30, 1995	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.".

12 USC 1467a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1991.

(c) ASSOCIATIONS THAT HAVE PREVIOUSLY FAILED TO REMAIN QUALIFIED THRIFT LENDERS.—If, as of June 30, 1991, any savings association is subject to any provision of section 10(m)(3) of the Home Owners' Loan Act as in effect on that date, the amendment to this subsection made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall not be construed as reducing the period specified in section 10(m)(3) of such Act. 12 USC 1467a note.

SEC. 304. TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS WITH AFFILIATES. 12 USC 1468 note.

(a) CONSISTENCY OF CERTAIN REGULATIONS WITH SECTION 23A OF THE FEDERAL RESERVE ACT.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Thrift Supervision shall revise the Director's conflicts regulations so as not to prohibit a thrift institution from purchasing mortgages from a mortgage-banking affiliate to the same extent as a member bank may do so under section 250.250 of title 12, Code of Federal Regulations.

(b) TRANSITIONAL PERIOD.—Notwithstanding section 11(a) of the Home Owners' Loan Act (as added by section 301 of this Act), a thrift institution that, before May 1, 1989, had received approval from the Federal Savings and Loan Insurance Corporation pursuant to section 408(d)(6) of the National Housing Act as then in effect to purchase mortgages from a mortgage-banking affiliate may, during the 6-month period following the date on which final regulations are prescribed pursuant to subsection (a), continue to engage in transactions for which it had received such approval. Any savings association that engages in such transactions pursuant to this subsection shall comply with the standards that were applicable under section 408(d)(6) as in effect on May 1, 1989.

(c) AUTHORITY TO EXTEND REGULATORY APPROVALS THAT WOULD OTHERWISE LAPSE DURING THE TRANSITIONAL PERIOD.—The Director of the Office of Thrift Supervision may extend until the expiration of the 6-month period described in subsection (b) any approval granted by the Federal Savings and Loan Insurance Corporation that expires or would expire before the expiration of that 6-month period. In determining whether to grant such exemptions, the Director shall apply the standards that were applicable under section 408(d)(6) of the National Housing Act as in effect on May 1, 1989.

SEC. 305. TRANSITIONAL RULES REGARDING CERTAIN LOANS AND EFFECTIVE DATES.

(a) DIVESTITURE OF CERTAIN LOANS AND INVESTMENTS NOT REQUIRED.—The limitations on loans and investments contained in section 5(c) of the Home Owners' Loan Act, as amended by section 301, do not require the divestiture of any loan or investment that was lawful when made under the provisions of such section as those provisions were in effect at the time such loan or investment was made. 12 USC 1464 note.

(b) LOANS SECURED BY NONRESIDENTIAL REAL PROPERTY.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision may, by order, permit a Federal savings association to exceed the limitation set forth in section 5(c)(2)(B)(i) of the Home Owners' Loan Act during the period beginning on the date of enactment of this Act and ending on June 1, 1991, if the Director determines that— 12 USC 1464 note.

(A) there is a reasonable prospect that the savings association can be in compliance, not later than June 1, 1991, with the capital standards prescribed under section 5(t) of the Home Owners' Loan Act; and

(B) the increased authority—

(i) is consistent with prudent operating practices, and

(ii) is in accordance with a plan submitted by the savings association for—

(I) an orderly transition to compliance with section 5(c)(2)(B)(i), or

(II) an orderly conversion to a bank charter.

(2) OTHER EXEMPTIVE AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any authority of the Director under section 5(c)(2)(B)(ii) of the Home Owners' Loan Act.

12 USC 1461 note.

(c) EFFECTIVE DATE.—The amendments made by section 301 relating to civil penalties shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities—

(1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and

(2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) occurring before the date of the enactment of this Act.

SEC. 306. AMENDMENT OF ADDITIONAL POWERS OF DIRECTOR.

(a) Section 502(c) of the Housing Act of 1948 (12 U.S.C. 1701c(c)) is amended by striking out "Federal Home Loan Bank Board (which term as used in this section shall also include and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners Loan Corporation, and the Chairman of the Federal Home Loan Bank Board)," and inserting in lieu thereof the following: "Director of the Office of Thrift Supervision,".

(b) Section 502(c)(1) of the Housing Act of 1948 (12 U.S.C. 1701c(b)(1)) is amended by striking out "of any State" and inserting in lieu thereof "of any Federal, State,".

SEC. 307. AMENDMENT TO TITLE 31, UNITED STATES CODE.

(a) OFFICE ESTABLISHED AS AN OFFICE WITHIN THE DEPARTMENT.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating section 309 as section 310 and by inserting after section 308 the following new section:

"§ 309. Office of Thrift Supervision

"The Office of Thrift Supervision established under section 2A(a) of the Home Owners' Loan Act shall be an office in the Department of the Treasury.".

(2) CLERICAL AMENDMENT.—The table of chapters for subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating the item relating to section 309 as section 310 and by inserting after the item relating to section 308 the following new item:

"309. Office of Thrift Supervision.".

(b) CONFORMING AMENDMENT.—Section 321(c) of title 31, United States Code, is amended—

(1) by adding at the end thereof the following new paragraph:
"(3) of the Director of the Office of Thrift Supervision;";
(2) by striking out "and" at the end of paragraph (1); and
(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and".

(c) GAO AUDIT AUTHORITY.—Section 714(a) of title 31, United States Code, is amended—

(1) by inserting ", and the Office of Thrift Supervision" before the period; and
(2) by striking out "and" after "Corporation,".

(d) CERTAIN REORGANIZATION PROHIBITED.—Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN REORGANIZATION PROHIBITED.—The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Office or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.".

(e) TECHNICAL AND CONFORMING AMENDMENT TO GOVERNMENT CONTROL ACT.—Section 9101(3) of title 31, United States Code, is amended by striking out subparagraph (E).

SEC. 308. PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS. 12 USC 1463 note.

(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Director of the Office of Thrift Supervision and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

(1) Preserving the present number of minority depository institutions.
(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:
(A) Same type of minority depository institution in the same city.
(B) Same type of minority depository institution in the same State.
(C) Same type of minority depository institution nationwide.
(D) Any type of minority depository institution in the same city.
(E) Any type of minority depository institution in the same State.
(F) Any type of minority depository institution nationwide.
(G) Any other bidders.
(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.
(4) Promoting and encouraging creation of new minority depository institutions.
(5) Providing for training, technical assistance, and educational programs.

(b) DEFINITIONS.—For purposes of this section—

(1) MINORITY FINANCIAL INSTITUTION.—The term "minority depository institution" means any depository institution that—

(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

(2) MINORITY.—The term "minority" means any black American, Native American, Hispanic American, or Asian American.

12 USC 1437 note.

TITLE IV—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Government organization and employees.

SEC. 401. FSLIC AND FEDERAL HOME LOAN BANK BOARD ABOLISHED.

(a) IN GENERAL.—

(1) FSLIC.—Effective on the date of the enactment of this Act, the Federal Savings and Loan Insurance Corporation established under section 402 of the National Housing Act is abolished.

(2) FHLBB.—Effective at the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board and the position of Chairman of the Federal Home Loan Bank Board are abolished.

(b) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—During the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board—

(A) shall, solely for the purpose of winding up the affairs of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board—

(i) manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee pursuant to section 403; and

(ii) manage any property of the Board and the Corporation until such property is transferred pursuant to section 405; and

(B) may take any other action necessary for the purpose of winding up the affairs of the Corporation and the Board.

(2) AVAILABILITY OF FUNDS IN FSLIC RESOLUTION FUND ON A REIMBURSABLE BASIS.—

(A) AVAILABILITY OF FUNDS.—Notwithstanding any provision of section 11A of the Federal Deposit Insurance Act (as added by section 215 of this Act), funds in the FSLIC Resolution Fund shall be available to the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out the requirements of paragraph (1).

(B) PAYMENT BY FDIC.—Upon the request of the Chairman of the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation shall pay to the Chairman from the

FSLIC Resolution Fund the amounts requested for expenses described in subparagraph (A).

(C) EXCLUSIVE SOURCE OF FUNDS.—No funds or other property of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation (other than the FSLIC Resolution Fund) may be used by the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out any provision of this title.

(D) REIMBURSEMENT BY SUCCESSOR AGENCIES.—Disbursements from the FSLIC Resolution Fund pursuant to subparagraph (A) which are attributable to employees described in paragraph (1)(A)(i) and property described in paragraph (1)(A)(ii) shall be reimbursed by the agency to which any such employee or property is transferred.

(c) AUTHORITY AND STATUS OF CHAIRMAN OF THE FEDERAL HOME LOAN BANK BOARD.—

(1) IN GENERAL.—Notwithstanding the repeal of section 17 of the Federal Home Loan Bank Act by section 703 of this Act, the repeal of section 402(c) of the National Housing Act by section 407 of this title, the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, the Chairman of the Federal Home Loan Bank Board shall have any authority vested in the Chairman or the Board before such date of enactment which is necessary for the Chairman to carry out the requirements of this section, paragraphs (1) and (2) of section 403(b), and section 405(a) during the 60-day period beginning on such date.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Chairman of the Federal Home Loan Bank Board shall continue to be—

(A) treated as an officer of the United States during the 60-day period referred to in such subparagraph; and

(B) entitled to compensation at the annual rate of basic pay payable for level III of the Executive Schedule.

(3) NO ADDITIONAL COMPENSATION IF APPOINTED DIRECTOR.—During the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board shall not be entitled to any additional compensation by reason of his appointment as Director of the Office of Thrift Supervision.

(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—

(1) EMPLOYEES OF FSLIC.—Any employee of the Federal Savings and Loan Insurance Corporation shall be treated as an employee of the Federal Home Loan Bank Board for purposes of subsection (b)(1)(A)(i).

(2) RULE OF CONSTRUCTION.—The repeal of section 17 of the Federal Home Loan Bank Act by section 703 of this Act, the repeal of section 402(c) of the National Housing Act by section 407 of this title, and the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, shall not be construed as affecting the status of employees of such Corporation or of the Federal Home Loan Bank Board as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee pursuant to section 403.

(e) CONTINUATION OF SERVICES.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board may use the services of employees and other personnel and the property of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, on a reimbursable basis, to perform functions which have been transferred to such agencies for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) REIMBURSEMENT.—The reimbursement required under paragraph (1) with respect to employees, personnel, and property described in such paragraph shall be made to the FSLIC Resolution Fund and shall be taken into account in determining the amount of any reimbursement required under subsection (b)(2)(D).

(3) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States (including any Federal home loan bank), and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation before the enactment of this Act in connection with functions that are transferred to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(f) SAVINGS PROVISIONS RELATING TO FSLIC.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Savings and Loan Insurance Corporation, or any other person, which—

(A) arises under or pursuant to any section of title IV of the National Housing Act; and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Federal Savings and Loan Insurance Corporation, or any Federal home loan bank with respect to any function of the Corporation which was delegated to employees of such bank, shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Corporation shall be substituted for the Corporation or the Federal home loan bank as a party to any such action or proceeding.

(g) SAVINGS PROVISIONS RELATING TO FHLBB.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Home Loan Bank Board, or any other person, which—

(A) arises under or pursuant to the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933, or any other

provision of law applicable with respect to such Board (other than title IV of the National Housing Act); and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—

(A) IN GENERAL.—No action or other proceeding commenced by or against the Federal Home Loan Bank Board, or any Federal home loan bank with respect to any function of the Board which was delegated to employees of such bank, shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Board shall be substituted for the Board or the Federal home loan bank as a party to any such action or proceeding.

(h) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—Subject to section 402, all orders, resolutions, determinations, and regulations, which—

(1) have been issued, made, prescribed, or allowed to become effective by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date this Act takes effect,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations and shall be enforceable by or against the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, by any court of competent jurisdiction, or by operation of law.

(i) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders which relate to the conduct of conservatorships and receiverships in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

(2) promptly publish notice of such identification in the Federal Register.

Federal Register, publication.

SEC. 402. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) REGULATIONS RELATING TO INSURANCE FUNCTIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation, or the Federal Home Loan Bank Board (in such Board's capacity as the board of trustees of such Corporation), which are in effect on the date of the enactment of this Act and relate to—

(1) the provision, rates, or cancellation of insurance of accounts; or

(2) the administration of the insurance fund of the Federal Savings and Loan Insurance Corporation,

shall remain in effect according to the terms of such regulations and orders and shall be enforceable by the Federal Deposit Insurance Corporation unless determined otherwise by such Corporation after consultation with the Director of the Office of Thrift Supervision and, with respect to regulations and orders relating to the scope of deposit insurance coverage, pursuant to subsection (c).

(b) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders referred to in subsection (a) of this section in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

Federal Register, publication.

(2) promptly publish notice of such identification in the Federal Register.

(c) PROCEDURE FOR DIFFERENCES IN DEPOSIT INSURANCE COVERAGE BETWEEN FSLIC AND FDIC.—

(1) TRANSITION RULE.—Until the effective date of regulations prescribed under paragraph (3)(B), any determination of the amount of any insured deposit in any depository institution which becomes an insured depository institution as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act by section 205(1) of this Act shall be made in accordance with the regulations and interpretations of the Federal Savings and Loan Insurance Corporation for determining the amount of an insured account which were in effect on the day before the date of the enactment of this Act.

(2) LIMITATION ON EXTENT OF COVERAGE.—During the period beginning on the date of the enactment of this Act and ending on the effective date of regulations prescribed under paragraph (3)(B), the amount of any insured account which is required to be treated as an insured deposit pursuant to paragraph (1) shall not exceed the amount of insurance to which such insured account would otherwise have been entitled pursuant to the regulations and interpretations of the Federal Savings and Loan Insurance Corporation which were in effect on the day before the date of the enactment of this Act.

(3) UNIFORM TREATMENT OF INSURED DEPOSITS.—The Federal Deposit Insurance Corporation shall—

(A) review its regulations, principles, and interpretations for deposit insurance coverage and those established by the Federal Savings and Loan Insurance Corporation; and

Regulations.

(B) on or before the end of the 270-day period beginning on the date of the enactment of this Act, prescribe a uniform set of regulations which shall be applicable to all insured deposits in insured depository institutions (except to the extent any provision of this Act, any amendment made by this Act to the Federal Deposit Insurance Act, or any other provision of law requires or explicitly permits the Federal Deposit Insurance Corporation to treat insured deposits of Savings Association Insurance Fund members differently than insured deposits of Bank Insurance Fund members).

(4) FACTORS REQUIRED TO BE CONSIDERED.—In prescribing regulations providing for the uniform treatment of deposit insurance

coverage, the Federal Deposit Insurance Corporation shall consider all relevant factors necessary to promote safety and soundness, depositor confidence, and the stability of deposits in insured depository institutions.

(5) NOTICE; EFFECTIVE DATE.—Regulations prescribed under this subsection shall—

(A) provide for effective notice to depositors in insured depository institutions of any change in deposit insurance coverage which would result under such regulations; and

(B) take effect on or before the end of the 90-day period beginning on the date such regulations become final.

(6) DEFINITIONS.—For purposes of this subsection—

(A) INSURED ACCOUNT.—The term "insured account" has the meaning given to such term in section 401(c) of the National Housing Act (as in effect before the date of the enactment of this Act).

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(d) INTERIM TREATMENT OF CUSTODIAL ACCOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (a) or any limitation contained in the Federal Deposit Insurance Act relating to the amount of deposit insurance available to any 1 borrower, amounts held in custodial accounts in insured depository institutions (as defined in section 3(c)(2) of such Act) for the payment of principal, interest, tax, and insurance payments for mortgage borrowers, shall be insured under the Federal Deposit Insurance Act in the amount of $100,000 per mortgage borrower.

(2) TREATMENT AFTER EFFECTIVE DATE OF NEW REGULATIONS.—After the effective date of the regulations prescribed under subsection (c)—

(A) the amount of deposit insurance available for custodial accounts shall be determined in accordance with such regulations; and

(B) paragraph (1) shall cease to apply with respect to such accounts.

(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, or institutions insured by the Federal Savings and Loan Insurance Corporation before such date shall be treated as a reference to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Office of Thrift Supervision, or institutions which are members of the Savings Association Insurance Fund, as appropriate on the basis of the transfer of functions pursuant to this Act, unless the context of the reference requires otherwise.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

(A) made available by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board pursuant to paragraph (3); or

(B) determined by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall take such action as may be necessary to assure that the indexes prepared by the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal home loan banks immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, as the case may be, determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 403. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) ALL FHLBB AND FSLIC EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall be identified for transfer under subsection (b) to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the Federal Housing Finance Board.

(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the Federal Housing Finance Board, and the Chairman of the Federal Home Loan Bank Board (as of the day before the date of the enactment of this Act) shall jointly determine the functions or activities of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, and the number of employees of such Board and Corporation necessary to perform or support

such functions or activities, which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board, as the case may be.

(2) ALLOCATION OF EMPLOYEES.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to paragraph (1) in a manner which such Director, Chairman, and Chairpersons, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) FEDERAL HOME LOAN BANK PERSONNEL.—Employees of the Federal home loan banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing functions or activities on behalf of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation shall be treated as employees of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Board or Corporation to the extent such functions or activities are transferred to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Resolution Trust Corporation, or the Federal Housing Finance Board.

(d) FSLIC EMPLOYEES ENGAGED IN CONSERVATORSHIP OR RECEIVERSHIP FUNCTIONS.—Individuals who, on the day before the date of the enactment of this Act, are employed by the Federal Savings and Loan Insurance Corporation in such Corporation's capacity as conservator or receiver of any insured depository institution shall be treated as employees of the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Corporation if such conservatorship or receivership is transferred to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation.

SEC. 404. RIGHTS OF EMPLOYEES OF ABOLISHED AGENCIES.

All employees identified for transfer under subsection (b) of section 403 (other than individuals described in subsection (c) or (d) of such section) shall be entitled to the following rights:

(1) Each employee so identified shall be transferred to the appropriate agency or entity for employment no later than 60 days after the date of the enactment of this Act and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

(2) Each transferred employee shall be guaranteed a position with the same status, tenure, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or

reduced in grade or compensation for 1 year after the date of transfer, except for cause.

(3)(A) In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

(B) An agency or entity may decline a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(4) If any agency or entity to which employees are transferred determines, after the end of the 1-year period beginning on the date the transfer of functions to such agency or entity is completed, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(5) Any employee accepting employment with any agency or entity (other than the Office of Thrift Supervision) as a result of such transfer may retain for 1 year after the date such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, to which such employee belongs on the date of the enactment of this Act if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Office of Thrift Supervision.

The difference in the costs between the benefits which would have been provided by such agency or entity and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(6) Any employee employed by the Office of Thrift Supervision as a result of the transfer may retain membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which such employee has on the date of enactment of this Act, if such employee does not elect to give up such membership and the benefit or program is continued by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, such employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or discontinuance, without regard to any other regularly scheduled open season.

(7) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the agency or entity to which such employee is transferred.

(8) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(9) Upon the termination of the Resolution Trust Corporation pursuant to section 21A(m) of the Federal Home Loan Bank Act, any employee of such Corporation shall be transferred to the Federal Deposit Insurance Corporation in accordance with the provisions of paragraphs (2) and (4) through (7) of this subsection, except that the liability for any difference in the costs of benefits described in paragraph (5) shall be a liability of the Resolution Trust Corporation and not the Office of Thrift Supervision.

SEC. 405. DIVISION OF PROPERTY AND FACILITIES.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall jointly divide all property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board used to perform functions and activities of the Federal Home Loan Bank Board among the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Federal Housing Finance Board in accordance with the division of responsibilities, functions, and activities effected by this Act. Any disagreement between them in so doing shall be resolved by the Director of the Office of Management and Budget.

SEC. 406. REPORT.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board shall provide by written report to the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Congress, a final accounting of the finances and operations of the Federal Savings and Loan Insurance Corporation.

SEC. 407. REPEALS.

Title 4 of the National Housing Act (1724 et seq.) is hereby repealed. 12 USC 1724 *et seq.*

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

Subtitle A—Oversight Board and Resolution Trust Corporation

SEC. 501. OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21 the following new section:

12 USC 1441a.

"SEC. 21A. OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION.

"(a) OVERSIGHT BOARD ESTABLISHED.—

"(1) IN GENERAL.—There is hereby established the Oversight Board as an instrumentality of the United States with the powers and authorities herein provided.

"(2) STATUS.—The Oversight Board shall oversee and be accountable for the Resolution Trust Corporation (hereinafter referred to in this section as the 'Corporation'). The Oversight Board shall be an 'agency' of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The Oversight Board shall consist of 5 members—

"(i) the Secretary of the Treasury;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System;

"(iii) the Secretary of Housing and Urban Development; and

"(iv) two independent members appointed by the President, with the advice and consent of the Senate. Such nominations shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) POLITICAL AFFILIATION.—The independent members shall not be members of the same political party. No independent member of the Oversight Board shall hold any other appointed office during his or her term as a member.

"(C) CHAIRPERSON.—The Chairperson of the Oversight Board shall be the Secretary of the Treasury.

"(D) TERM OF OFFICE.—The term of each member (other than the independent members) of the Oversight Board shall expire when such member has fulfilled all of his or her responsibilities under this section and section 21B. The term of each independent member shall be 3 years.

"(E) QUORUM REQUIRED.—A quorum shall consist of 3 members of the Oversight Board and all decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(4) COMPENSATION AND EXPENSES.—

"(A) EXPENSES.—Members of the Oversight Board shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Oversight Board, as set forth in the bylaws issued by the Oversight Board.

"(B) NO ADDITIONAL COMPENSATION FOR UNITED STATES OFFICERS OR EMPLOYEES.—Members of the Oversight Board (other than independent members) shall receive no additional pay by reason of service on such Board.

"(C) COMPENSATION FOR INDEPENDENT MEMBERS.—The independent members of the Oversight Board shall be paid at a rate equal to the daily equivalent of the rate of basic pay for level II of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties of the Oversight Board.

"(5) POWERS.—The Oversight Board shall be a body corporate that shall have the power to—

"(A) adopt, alter, and use a corporate seal;

"(B) provide for a principal or executive officer and such other officers and employees as may be necessary to perform the functions of the Oversight Board, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(C) fix the compensation and number of, and appoint, employees for any position established by the Oversight Board;

"(D) set and adjust rates of basic pay for employees of the Oversight Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code;

"(E) provide additional compensation and benefits to employees of the Oversight Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation; in setting and adjusting the total amount of compensation and benefits for employees of the Oversight Board, the Oversight Board shall consult with and seek to maintain comparability with the other Federal bank regulatory agencies, except that the Oversight Board shall not in any event exceed the compensation and benefits provided by the Federal Deposit Insurance Corporation with respect to any comparable position;

"(F) with the consent of any executive agency, department, or independent agency utilize the information, services, staff, and facilities of such department or agency, on a reimbursable (or other) basis, in carrying out this section;

"(G) prescribe bylaws that are consistent with law to provide for the manner in which—

"(i) its officers and employees are selected, and

"(ii) its general operations are to be conducted;

"(H) enter into contracts and modify or consent to the modification of any contract or agreement;

"(I) sue and be sued in courts of competent jurisdiction; and

"(J) exercise any and all powers established under this section and such incidental powers as are necessary to carry out its powers, duties, and functions under this Act.

"(6) OVERSIGHT BOARD DUTIES AND AUTHORITIES.—The Oversight Board shall have the following duties and authorities with respect to the Corporation:

"(A) To develop and establish overall strategies, policies, and goals for the Corporation's activities in consultation with the Corporation, including such items as—

"(i) general policies and procedures for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).

"(B) To approve prior to implementation periodic financing requests developed by the Corporation.

"(C) To review all rules, regulations, principles, procedures, and guidelines that may be adopted or announced by the Corporation. After consultation with the Corporation, the Oversight Board may require the modification of any such rules, regulations, principles, procedures, or guidelines except that the rules, regulations, principles, procedures, and guidelines relating to the Corporation's powers and activities as a conservator or receiver shall be consistent with the Federal Deposit Insurance Act. The provisions of this subparagraph shall not apply to internal administrative policies and procedures, and determinations or actions described in paragraph (8) of this subsection.

"(D) To review the overall performance of the Corporation on a periodic basis, including its work, management activities, and internal controls, and the performance of the Corporation relative to approved budget plans.

"(E) To require from the Corporation any reports, documents, and records it deems necessary to carry out its oversight responsibilities.

"(F) To establish a national advisory board and regional advisory boards.

"(G) To authorize the use of proceeds from any funds provided by the Treasury to the Corporation and from any financing by the Resolution Funding Corporation established pursuant to section 21B of this Act consistent with the approved budget and financial plans of the Corporation and to oversee the collection of funds by the Resolution Funding Corporation.

"(H) To evaluate audits by the Inspector General and other congressionally required audits.

"(I) To have general oversight over the Resolution Funding Corporation as provided under section 21B of this Act.

"(J) To authorize, as appropriate, the Corporation's sale of capital certificates to the Resolution Funding Corporation.

"(7) TRANSITION POLICIES.—Until such time as the Oversight Board and the Corporation (consistent with paragraph (6) and subsection (b)(12)) adopt strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines, the Corporation may carry out its duties in accordance with the strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines of the Federal Deposit Insurance Corporation, notwithstanding the provisions of section 553 of title 5, United States Code.

"(8) LIMITATION ON AUTHORITY.—

"(A) IN GENERAL.—The Corporation shall have the authority, without any prior review, approval, or disapproval by the Oversight Board, to make such determinations and take such actions as it deems appropriate with respect to case-specific matters (i) involving individual case resolutions, (ii) asset liquidations, or (iii) day-to-day operations of the Corporation. The preceding sentence in no way limits the authority of the Oversight Board to provide general policies and procedures.

"(B) FEDERAL DEPOSIT INSURANCE CORPORATION.—Nothing contained in this section shall give the Oversight Board authority over the activities, powers, or functions of the Federal Deposit Insurance Corporation except to the extent provided in this section and only with respect to the activities of the Federal Deposit Insurance Corporation in carrying out the responsibilities of the Corporation. The Federal Deposit Insurance Corporation shall be subject to the obligations, responsibilities, duties, and restrictions imposed by this section only to the extent it is carrying out the functions of the Corporation.

"(9) DELEGATION.—Except with respect to the meetings required by paragraph (10), nothing in this section shall preclude a member of the Oversight Board who is a public official from delegating his or her authority to an employee or officer of such member's agency or organization, if such employee or officer has been appointed by the President with the advice and consent of the Senate. For purposes of the preceding sentence, the Chairman of the Board of Governors of the Federal Reserve System may delegate his or her authority to another member of the Board of Governors.

"(10) QUARTERLY MEETINGS.—Not less than 4 times each year, the Oversight Board shall conduct open meetings to establish and review the general policy of the Corporation and to consider such other standards, policies, and procedures necessary to carry out its functions under this Act.

"(11) POWER TO REMOVE; JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Oversight Board is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction. The Oversight Board may, without bond or security, remove any such action, suit, or proceeding from a State court to a United States District Court or to the United States District Court for the District of Columbia.

"(12) ADMINISTRATIVE EXPENSES.—The administrative expenses of the Oversight Board shall be paid by the Corporation, upon request of the Oversight Board.

"(13) STANDARDS, POLICIES, PROCEDURES, GUIDELINES, AND STATEMENTS.—The Oversight Board may issue rules, regulations, standards, policies, procedures, guidelines, and statements as the Oversight Board considers necessary or appropriate to carry out its authorities and duties under this Act which shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(14) STRATEGIC PLAN FOR CORPORATION OPERATIONS.—

"(A) IN GENERAL.—The Oversight Board shall, subject to paragraph (6), develop a strategic plan for conducting the Corporation's functions and activities. The Oversight Board shall submit the strategic plan to the Congress not later than December 31, 1989.

"(B) PROVISIONS OF PLAN.—The strategic plan and implementing policies and procedures required under this paragraph shall at a minimum contain the following:

"(i) Factors the Corporation shall consider in deciding the order in which failed institutions or categories of failed institutions will be resolved.

"(ii) Standards the Corporation shall use to select the appropriate resolution action for a failed institution.

"(iii) With respect to assisted acquisitions, factors the Corporation shall consider in deciding whether nonperforming assets of the failed institution will be transferred to the acquiring institution rather than retained by the Corporation for management and disposal.

"(iv) Plans for the disposition of assets.

"(v) Management objectives by which the Corporation's progress in carrying out its duties under this section can be measured.

"(vi) A plan for the organizational structure and staffing of the Corporation, including an assessment of the extent to which the Corporation will perform asset management functions and other duties through contracts with public and private entities.

"(vii) Consideration of whether incentives should be included in asset management contracts to promote active and efficient asset management.

"(viii) Standards for adequate competition and fair and consistent treatment of offerors.

Discrimination, prohibition.

"(ix) Standards that prohibit discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

Women. Minorities.

"(x) Procedures for the active solicitation of offers from minorities and women.

"(xi) Procedures requiring that unsuccessful offerors be notified in writing of the decision within 30 days after the offer has been rejected.

"(xii) Procedures for establishing the market value of assets based upon standard market analysis, valuation, and appraisal practices.

"(xiii) Procedures requiring the timely evaluation of purchase offers for an institution.

"(xiv) Procedures for bulk sales and auction marketing of assets.

Disadvantaged persons. Homeless persons. Children and youth.

"(xv) Guidelines for determining if the value of an asset has decreased so that no reasonable recovery is anticipated. In such cases, the Corporation may consider potential public uses of such asset including providing housing for lower income families (including the homeless), day care centers for the children of low- and moderate-income families, or such other public purpose designated by the Secretary of Housing and Urban Development.

"(xvi) Guidelines for the conveyance of assets to units of general local government, States, and public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary of Housing and Urban Development under section 810 of the Housing and Community Development Act of 1974.

"(xvii) Policies and procedures for avoiding political favoritism and undue influence in contracts and decisions made by the Oversight Board and the Corporation.

"(15) TERMINATION.—The Oversight Board shall terminate not later than 60 days after the Oversight Board fulfills all of its responsibilities under this Act.

"(b) RESOLUTION TRUST CORPORATION ESTABLISHED.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established a Corporation to be known as the Resolution Trust Corporation which shall be an instrumentality of the United States.

"(B) STATUS.—The Corporation shall be deemed to be an agency of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, when it is acting as a corporation. The Corporation, when it is acting as a conservator or receiver of an insured depository institution, shall be deemed to be an agency of the United States to the same extent as the Federal Deposit Insurance Corporation when it is acting as a conservator or receiver of an insured depository institution.

"(C) FDIC AS EXCLUSIVE MANAGER.—Immediately upon enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal Deposit Insurance Corporation shall be authorized to and shall perform all responsibilities of the Corporation, and shall continue to do so unless removed pursuant to subsection (m).

"(2) GOVERNMENT CORPORATION.—Notwithstanding the fact that no Government funds may be invested in the Corporation, the Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(3) DUTIES.—The duties of the Corporation shall be to carry out a program, under the general oversight of the Oversight Board and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)), including:

"(A) To manage and resolve all cases involving depository institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(ii) for which a conservator or receiver—

"(I) had been appointed at any time during the period beginning on January 1, 1989, and ending on the date of the enactment of such Act (including any institution described in paragraph (6)); or

"(II) is appointed within the 3-year period beginning on the date of the enactment of such Act.

"(B) To manage the Federal Asset Disposition Association, subject to the provisions of subsection (f).

"(C) To conduct the operations of the Corporation in a manner which—

"(i) maximizes the net present value return from the sale or other disposition of institutions described in subparagraph (A) or the assets of such institutions;

"(ii) minimizes the impact of such transactions on local real estate and financial markets;

"(iii) makes efficient use of funds obtained from the Funding Corporation or from the Treasury;

"(iv) minimizes the amount of any loss realized in the resolution of cases; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.

"(D) To perform any other function authorized under this section.

"(4) CONSERVATORSHIP, RECEIVERSHIP, AND ASSISTANCE POWERS.—Except as provided in paragraph (5) and in addition to any other provision of this section, the Corporation shall have the same powers and rights to carry out its duties with respect to institutions described in paragraph (3)(A) as the Federal Deposit Insurance Corporation has under sections 11, 12, and 13 of the Federal Deposit Insurance Act with respect to insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act).

"(5) LIMITATION ON PARAGRAPH (4) POWERS.—The Corporation—

"(A) may not obligate the Federal Deposit Insurance Corporation or any funds of the Federal Deposit Insurance Corporation; and

"(B) in connection with providing assistance to an institution under this subsection, shall be subject to the limitations contained in section 13(c)(4) of the Federal Deposit Insurance Act.

"(6) SUCCESSOR TO FSLIC AS CONSERVATOR OR RECEIVER.—As of the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any institution for which the Federal Savings and Loan Insurance Corporation was appointed conservator or receiver during the period beginning on January 1, 1989 and ending on such date of enactment.

"(7) OBLIGATIONS AND GUARANTEES.—The Corporation's authority to issue obligations and guarantees shall be subject to general supervision by the Oversight Board under subsection (a) and shall be consistent with subsection (j).

"(8) BOARD OF DIRECTORS.—

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Federal Deposit Insurance Corporation shall serve as the Board of Directors of the Corporation.

"(B) CHAIRPERSON.—Except as provided in subsection (m), the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall serve as the Chairperson of the Board of Directors of the Corporation.

"(C) COMPENSATION.—Members of the Board of Directors of the Corporation shall receive no pay, allowances, or benefits from the Corporation by reason of their service on the Board of Directors, but shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors, as set forth in the bylaws issued by the Board of Directors.

"(9) STAFF.—

"(A) IN GENERAL.—Unless the Oversight Board exercises its authority under subsection (m), the Corporation itself shall have no employees.

"(B) UTILIZATION OF PERSONNEL OF OTHER AGENCIES.—

"(i) FDIC.—The Federal Deposit Insurance Corporation, when acting as the exclusive manager of the Corporation, shall (subject to subsection (a)(6)) receive reimbursement from the Corporation for all services performed for the Corporation. Such reimbursement may not exceed the actual and reasonable cost incurred by the Federal Deposit Insurance Corporation in performing such services.

"(ii) OTHER AGENCIES.—With the agreement of any executive department or agency, the Corporation may utilize the personnel of any such executive department or agency on a reimbursable basis to cover actual and reasonable expenses.

"(10) CORPORATE POWERS.—The Corporation shall have the following powers:

"(A) To adopt, alter, and use a corporate seal.

"(B) In the event the Oversight Board exercises its authority under subsection (m), the Corporation shall provide for a chief executive officer, 1 or more vice presidents, a secretary, a general counsel, a treasurer, and such other officers, employees, attorneys, and agents as the Corporation may determine to be necessary, define the duties of such officers or employees, and require surety bonds or make other provisions against losses occasioned by acts of such individuals.

"(C) To enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Corporation is a party or in which the Corporation has an interest under this section.

"(D) To make advance, progress, or other payments.

"(E) To acquire, hold, lease, mortgage, maintain, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the operations of the Corporation.

"(F) To sue and be sued in its corporate capacity in any court of competent jurisdiction.

"(G) To deposit any securities or funds held by the Corporation in any facility or depositary described in section 13(b) of the Federal Deposit Insurance Act under the terms and conditions applicable to the Federal Deposit Insurance Corporation under such section 15(b) and pay fees thereof and receive interest thereon.

"(H) To take warrants, voting and nonvoting equity, or other participation interests in institutions or assets or properties of institutions described in paragraph (3)(A) and paragraph (11)(A)(iv).

"(I) To use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(J) To prescribe through its Board of Directors bylaws that shall be consistent with law.

"(K) To make loans.

"(L) To prepare reports and provide such reports, documents, and records to the Oversight Board as required by this section.

"(M) To issue capital certificates to the Resolution Funding Corporation consistent with the provisions of section 21B of this Act in the following manner:

"(i) AUTHORIZATION TO ISSUE.—The Corporation is hereby authorized to issue to the Resolution Funding Corporation nonvoting capital certificates.

"(ii) REQUIREMENT RELATING TO THE AMOUNT OF CERTIFICATES.—The amount of certificates issued by the Corporation under clause (i) shall be equal to the aggregate amount of funds provided by the Resolution Funding Corporation to the Corporation under section 21B.

"(iii) CERTIFICATES MAY BE ISSUED ONLY TO THE RESOLUTION FUNDING CORPORATION.—Capital certificates issued under clause (i) may be issued only to the Resolution Funding Corporation in the manner and to the extent provided in section 21B and this section.

"(iv) NO DIVIDENDS.—The Corporation shall not pay dividends on any capital certificates issued under this section.

"(N) To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section.

"(11) SPECIAL POWERS.—

"(A) IN GENERAL.—In addition to the powers of the Corporation described in paragraph (10), the Corporation shall have the following powers:

"(i) CONTRACTS.—The Corporation may enter into contracts with any person, corporation, or entity, including State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) and insured depository institutions, which the Corporation determines to be necessary or appropriate to carry out its responsibilities under this section. Such contracts shall be subject to the procedures adopted pursuant to paragraph (12).

"(ii) UTILIZATION OF PRIVATE SECTOR.—In carrying out the Corporation's duties under this section, the Corporation and the Federal Deposit Insurance Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practicable and efficient.

"(iii) MERGERS AND CONSOLIDATIONS.—The Corporation may require a merger or consolidation of an institution or institutions over which the Corporation has jurisdiction, if such merger or consolidation is consistent with section 13(c)(4) of the Federal Deposit Insurance Act.

"(iv) ORGANIZATION OF SAVINGS ASSOCIATIONS.—The Corporation may organize 1 or more Federal savings associations—

"(I) which shall be chartered by the Director of the Office of Thrift Supervision,

"(II) the deposits of which, if any, shall be insured by the Federal Deposit Insurance Corporation through the Savings Association Insurance Fund, and

"(III) which shall operate in accordance with subsection (e).

"(v) ORGANIZATION OF BRIDGE BANKS.—The Corporation may organize 1 or more bridge banks pursuant to subsection (i) of section 11 of the Federal Deposit Insurance Act with respect to any institution described in paragraph (3)(A) which becomes a bank. Such bridge bank shall be subject to subsection (e).

"(B) REVIEW OF PRIOR CASES.—The Corporation shall—

"(i) review and analyze all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and actively review all means by which it can reduce costs under existing Federal Savings and Loan Insurance Corporation agreements relating to such cases, including restructuring such agreements;

"(ii) evaluate the costs under existing Federal Savings and Loan Insurance Corporation agreements with regard to the following—

"(I) capital loss coverage,

"(II) yield maintenance guarantees,

"(III) forbearances,

"(IV) tax consequences, and

"(V) any other relevant cost consideration;

"(iii) review the bidding procedures used in resolving such cases in order to determine whether the bidding and negotiating processes were sufficiently competitive; and

"(iv) report to the Oversight Board and the Congress pursuant to subsection (k). Reports.

The Corporation shall exercise any and all legal rights to modify, renegotiate, or restructure such agreements where savings would be realized by such actions. The cost or income of any modification shall be a liability or an asset of the Corporation or the FSLIC Resolution Fund as determined by the Oversight Board. Nothing in this paragraph shall be construed as granting the Corporation any legal rights to modify, renegotiate, or restructure agreements between the Federal Savings and Loan Insurance Corporation and any other party, which did not exist prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(12) REGULATIONS, POLICIES, AND PROCEDURES.—

"(A) IN GENERAL.—Subject to the review of the Oversight Board, the Corporation shall adopt the rules, regulations, standards, policies, procedures, guidelines, and statements

necessary to implement the strategic plan established by the Oversight Board under subsection (a)(14). The Corporation may issue such rules, regulations, standards, policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out this section.

"(B) REVIEW, ETC.—Such rules, regulations, standards, policies, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Oversight Board as provided in subsection (a)(6)(C); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(C) PREPARATION AND MAINTENANCE OF RECORDS RELATING TO SOLICITATION AND ACCEPTANCE OF OFFERS.—The Corporation shall—

"(i) document decisions made in the solicitation and selection process and the reasons for the decisions; and

"(ii) maintain such documentation in the offices of the Corporation, as well as any other documentation relating to the solicitation and selection process.

Real property.

"(D) DISTRESSED AREAS.—

"(i) IN GENERAL.—In developing its implementing policies, the Corporation shall take the action described in clause (ii) to avoid adverse economic impact for those real estate markets that are distressed.

"(ii) VALUATION AND DISPOSITION.—The Corporation shall establish an appraisal or other valuation method for determining the market value of real property. With respect to a real property asset with a market value in excess of a certain dollar limit (such limit to be determined by the Board of Directors of the Corporation), consideration shall be given to the volume of assets above such limit and the potential impact of sales in such distressed areas. The Corporation shall not sell a real property asset located in a distressed area without obtaining at least the minimum disposition price, unless a determination has been made that such a transaction furthers the objectives set forth in paragraph (3)(C).

"(iii) EXCEPTION.—The provisions of this subparagraph shall not apply to any property as long as such property is subject to the requirements of subsection (c).

"(E) DEFINITIONS.—For the purposes of this subsection—

"(i) The term 'minimum disposition price' means 95 percent of the market value established by the Corporation. The Board of Directors, in its discretion, may change the percentage set forth in this definition from time to time if the Board of Directors determines that such change does not adversely impact the objectives set forth in paragraph (3)(C).

"(ii) The term 'sell a real property asset' means to convey all title and interest in a piece of tangible real property in which the Corporation has a fee simple or equivalent interest. The term 'real property' does not

include loans secured by real property, joint ventures, participation interests, options, or other similar interests. In addition, the term 'sell' does not include hypothecation of assets, issuance of asset backed securities, issuance of joint ventures, or participation interests, or other similar activities.

"(iii) The term 'distressed area' means the geographic areas in those political subdivisions designated from time to time by the Board of Directors as having depressed real estate markets. Until the Board of Directors designates otherwise, such distressed areas shall be the States of Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

"(iv) The term 'market value' means the most probable price which a property should bring in a competitive and open market if—

"(I) all conditions requisite to a fair sale are present,

"(II) the buyer and seller are acting prudently and are knowledgable, and

"(III) the price is not affected by any undue stimulus.

"(F) REAL ESTATE ASSET DIVISION.—The Corporation shall establish a Real Estate Asset Division to assist and advise the Corporation with respect to the management, sale, or other disposition of real property assets of institutions described in paragraph (3)(A). The Real Estate Asset Division shall have such duties as the Corporation establishes, including the publication of an inventory of real property assets of institutions subject to the jurisdiction of the Corporation. Such inventory shall be published before January 1, 1990 and updated semiannually thereafter and shall identify properties with natural, cultural, recreational, or scientific values of special significance.

Public information.

"(13) PERIODIC FINANCING REQUESTS.—The Corporation shall provide the Oversight Board with periodic financing requests which shall detail—

"(A) anticipated funding requirements for operations, case resolution, and asset liquidation,

"(B) anticipated payments on previously issued notes, guarantees, other obligations, and related activities, and

"(C) any proposed use of notes, guarantees or other obligations.

Such financing requests shall be submitted on a quarterly basis or such other period as the Oversight Board determines necessary. Following approval by the Oversight Board, such requests shall form the basis for expending funds provided by the Treasury, for transferring funds from the Resolution Funding Corporation to the Corporation and the issuance of capital certificates by the Corporation in exchange therefor.

"(14) FISCAL YEAR 1989 FUNDING.—

"(A) FUNDS FROM TREASURY.—The Secretary of the Treasury shall provide the Corporation with the sum of $18,800,000,000 in fiscal year 1989, and for such purpose the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, United States Code.

"(B) FUNDS FROM RESOLUTION FUNDING CORPORATION.—The Resolution Funding Corporation shall provide the Corporation with such sums authorized pursuant to section 21B(e)(8) and the Corporation shall issue capital certificates in exchange therefor.

Disadvantaged persons.

"(c) DISPOSITION OF ELIGIBLE RESIDENTIAL PROPERTIES.—

"(1) PURPOSE.—The purpose of this subsection is to provide homeownership and rental housing opportunities for very low-income, lower-income, and moderate-income families.

"(2) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(B) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—For the 3-month period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to (i) qualifying households, or (ii) public agencies or nonprofit organizations that agree to (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of such property, or (II) make the property available for purchase by such families. The restrictions described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument. If upon the expiration of such 3-month period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to lower-income families.

Marketing.

"(3) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. The clearinghouses shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to an

eligible multifamily housing property for purposes of inspection.

"(B) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under subparagraph (A), or until the Corporation determines that a property is ready for sale, whichever occurs first. Such notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(C) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(D) OFFERS TO PURCHASE.—A qualifying multifamily purchaser receiving notice in accordance with subparagraph (C) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase a property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—Not less than 35 percent of all dwelling units purchased by a qualifying multifamily purchaser under subparagraph (D) shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located, provided that not less than 20 percent of all units shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of such property. If a single entity purchases more than 1 eligible property as part of the same negotiation, the requirements of this subparagraph shall apply in the aggregate to the properties so purchased. The requirements of this subparagraph shall be contained in the deed or other recorded instrument.

"(F) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(i) If, upon the expiration of the period referred to in subparagraph (B), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(ii) The Corporation may not sell in combination with other properties any property which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(iii) If, upon the expiration of the period referred to in subparagraph (D), no qualifying multifamily purchaser has made an offer to purchase the property, the Corporation may sell the property, individually or in combination with other properties, to any purchaser.

"(G) EXEMPTIONS.—

"(i) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily housing property may terminate the occupancy of any person resid-

ing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement applicable to the property under subparagraph (E). The purchaser shall be in compliance with this paragraph if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

"(ii) FINANCIAL INFEASIBILITY.—The Secretary of Housing and Urban Development or the State housing finance agency for the State in which the property is located may temporarily reduce the lower-income occupancy requirements applicable to any property under subparagraph (E), if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by subparagraph (E), and the Secretary of Housing and Urban Development or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(4) RENT LIMITATIONS.—

"(A) IN GENERAL.—With respect to properties under subparagraph (B), rents charged to tenants for units made available for occupancy by very-low income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(B) APPLICABILITY.—The rent limitations under this paragraph shall apply to any eligible single-family property sold pursuant to paragraph (2)(B)(ii)(I) and to any multifamily housing property sold pursuant to paragraph (3).

"(5) PREFERENCE FOR SALES.—When selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term.

"(6) FINANCING OF SALE.—

"(A) ASSISTANCE BY CORPORATION.—

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible residential property. The Corporation shall sell eligible residential property at the net realizable market value. The Corporation may agree to sell an eligible single family property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a lower-income family to purchase the property. The Corporation may agree to sell eligible

residential property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraphs (2) and (3).

"(ii) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to the purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide such a loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (I) a lower-income family to purchase an eligible single family property under paragraph (2); or (II) a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to the purchase of an eligible residential property under paragraph (2) or (3). The Corporation shall provide such loan in a form which would permit its sale or transfer to a subsequent holder.

"(B) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, section 810 of the Housing and Community Development Act of 1974, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(C) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such actions as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(7) CONTRACTING RULES.—Contracts entered into under this subsection shall not be subject to the requirements of subsection (b)(11)(A).

"(8) USE OF SECONDARY MARKET AGENCIES.—

"(A) IN GENERAL.—In the disposition of eligible residential properties, the Corporation shall, in consultation with the Secretary, explore opportunities to work with secondary market entities to provide housing for lower- and moderate-income families.

"(B) CREDIT ENHANCEMENT.—With respect to such Corporation properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

"(C) REPORT.—In the annual report submitted by the Secretary to the Congress, the Secretary shall include a detailed description of his activities under this paragraph, including recommendations for such additional authorization as he deems necessary to implement the provisions of this subsection.

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) ADJUSTED INCOME.—The term 'adjusted income' has the same meaning as such term has under section 3 of the United States Housing Act of 1937.

"(B) CLEARINGHOUSES.—The term 'clearinghouses' means—

"(i) the State housing finance agency for the State in which an eligible residential property is located,

"(ii) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and

"(iii) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation either in its corporate capacity or as receiver, but does not include the Corporation in its capacity as an operating conservator.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(E) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(G) LOWER-INCOME FAMILIES.—The term 'lower-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(H) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (i) any reductions in holding costs resulting from the expedited sale of a property, includ-

ing but not limited to foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (ii) the avoidance, where applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(I) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(i) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(ii) that is approved by the Corporation as to financial responsibility.

"(J) PUBLIC AGENCY.—The term 'public agency'—

"(i) means any Federal, State, local, or other governmental entity; and

"(ii) includes any public housing agency.

"(K) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household (i) who intends to occupy eligible single family property as a principle residence; and (ii) whose adjusted income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(L) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means (i) a public agency, (ii) a nonprofit organization, or (iii) a for-profit entity which makes a commitment (for itself or any related entity) to satisfy the lower-income occupancy requirements specified under paragraph (3)(E) for any eligible multifamily property for which an offer to purchase is made during or after the periods specified under paragraph (3).

"(M) RURAL AREA.—The term 'rural area' has the meaning given such term in section 520 of the Housing Act of 1949.

"(N) SECRETARY.—The term 'Secretary' means the Secretary of the Housing and Urban Development.

"(O) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout such State.

"(P) VERY LOW-INCOME FAMILIES.—The term 'very-low income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(10) EXCEPTION.—The provisions of this subsection shall not apply whenever the Corporation as receiver contracts to sell all or substantially all of the assets of a closed savings association to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

"(11) THIRD PARTY RIGHTS.—

"(A) IN GENERAL.—The provisions of this subsection, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property once it is conveyed by the Corporation.

"(B) LOWER-INCOME OCCUPANCY.—The lower-income occupancy requirements specified under paragraphs (2) and (3) shall be judicially enforceable against purchasers of property under this subsection or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(C) CLEARINGHOUSE.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this subsection.

"(d) NATIONAL AND REGIONAL ADVISORY BOARDS.—

"(1) NATIONAL ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Oversight Board shall establish a national advisory board to provide information to the Oversight Board, and to advise that Board on policies and programs for the sale or other disposition of real property assets of institutions which are described in subsection (b)(3)(A).

"(B) MEMBERSHIP.—The national advisory board shall consist of—

"(i) a chairperson appointed by the Oversight Board; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (2).

"(C) MEETINGS.—The national advisory board shall meet 4 times a year, or more frequently if requested by the Corporation.

"(2) REGIONAL ADVISORY BOARDS.—

"(A) ESTABLISHMENT.—The Oversight Board shall establish not less than 6 regional advisory boards to advise the Corporation on the policies and programs for the sale or other disposition of real property assets of institutions described in subsection (b)(3)(A). Such regional advisory boards shall be established in any region where the Oversight Board determines that there exists a significant portfolio of real property assets of institutions which are described in subsection (b)(3)(A).

"(B) MEMBERSHIP.—

"(i) APPOINTMENT.—Each regional advisory board shall consist of 5 members. Each member shall be appointed by the Oversight Board and shall serve at the pleasure of the Oversight Board. The members shall be selected from those residents of the region who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters.

"(ii) TERMS.—Each member of a regional advisory board shall serve a term not to exceed 2 years, except that the Oversight Board may provide for classes of members so that the terms of not more than 3 members of any such board shall expire in any 1 year.

"(C) MEETINGS.—Each regional advisory board shall meet 4 times a year, or more frequently if requested by the

Corporation. A regional advisory board shall conduct its meetings in its region.

"(3) PROHIBITION ON COMPENSATION.—Members of the national and regional advisory boards shall serve without compensation, except that such members shall be entitled to receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending official meetings and other activities of the boards.

"(4) TREATMENT AS ADVISORY COMMITTEE AND TERMINATION OF NATIONAL AND REGIONAL ADVISORY BOARDS.—

"(A) FEDERAL ADVISORY COMMITTEE ACT.—The national and regional advisory boards shall be subject to the provisions of the Federal Advisory Committee Act.

"(B) TERMINATION.—Notwithstanding the provisions of the Federal Advisory Committee Act, the national advisory board and any regional advisory board established pursuant to this subsection which is in existence on the date on which the Corporation terminates shall also terminate on such date.

"(e) INSTITUTIONS ORGANIZED BY THE CORPORATION.—

"(1) LIMITATIONS ON CERTAIN ACTIVITIES.—All insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) organized by the Corporation under this section shall, during the period such institutions are within the control of the Corporation, be subject to such limitations, restrictions, and conditions as determined by the Corporation with respect to the following activities:

"(A) Growth of assets.

"(B) Lending and borrowing activities.

"(C) Asset acquisitions.

"(D) Use of brokered deposits.

"(E) Payment of deposit rates.

"(F) Setting policy or credit standards.

"(G) Capital standards.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided, all insured depository institutions (defined in section 3 of the Federal Deposit Insurance Act) organized by the Corporation shall—

"(A) be subject to all laws and rules otherwise applicable to them as insured depository institutions, and

"(B) shall be subject to the supervision of the appropriate Federal banking agency (as that term is defined in section 3 of the Federal Deposit Insurance Act).

"(f) FADA.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall liquidate the Federal Asset Disposition Association.

"(g) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation and the Oversight Board, the capital, reserves, surpluses, and assets of the Corporation and the Oversight Board, and the income derived from such capital, reserves, surpluses, or assets shall be exempt from State, municipal, and local taxation except taxes on real estate held by the Corporation, according to its value as other similar property held by other persons is taxed.

"(h) GUARANTEES OF FSLIC.—

"(1) ASSUMPTION BY CORPORATION.—On the date of the enactment of this section, the Corporation shall, by operation of law (and without further action by the Corporation, the Oversight Board, the Federal Housing Finance Board, the Federal Savings and Loan Insurance Corporation, or any court), assume all rights and obligations of the Federal Savings and Loan Insurance Corporation with respect to any guarantee issued by the Federal Savings and Loan Insurance Corporation during the period beginning on January 1, 1989, and ending on such date of enactment, in connection with any loan to any savings association by any Federal Reserve bank or Federal Home Loan Bank (hereinafter in this subsection referred to as a 'lender').

"(2) PAYMENT BY CORPORATION.—Any obligation assumed by the Corporation for any guarantee described in paragraph (1) to any lender shall be paid by the Corporation before the end of the 1-year period beginning on the date of the enactment of this section. Payment shall be made from funds or assets available to the Corporation.

"(3) PRIORITY OF CLAIMS OF LENDERS.—Any claim by a lender with respect to any obligation assumed by the Corporation for a guarantee described in paragraph (1) shall have priority over all other secured or unsecured obligations of the Corporation.

"(4) TREASURY BACKUP.—If the resources of the Corporation are insufficient to pay all the obligations assumed by the Corporation under paragraph (1) within the 1-year period, the Secretary of the Treasury shall pay the amount of any such deficiency. There are hereby appropriated to the Secretary for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to pay such deficiency.

"(i) BORROWING.—

"(1) IN GENERAL.—The Corporation, upon approval of the Oversight Board, is authorized to borrow from the Treasury. The Secretary of the Treasury is authorized and directed to loan to the Corporation, on such terms as may be fixed by the Secretary of the Treasury, an amount not exceeding in the aggregate $5,000,000,000 outstanding at any one time.

Loans.

"(2) INTEREST RATE.—Each such loan shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(j) MAXIMUM AMOUNT LIMITATIONS ON OUTSTANDING OBLIGATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the amount which is equal to—

"(A) the sum of—

"(i) the total amount of contributions received from the Resolution Funding Corporation; and

"(ii) the total amount of outstanding obligations of the Corporation; minus

"(B) the sum of—

"(i) the amount of cash held by the Corporation; and

"(ii) the amount which is equal to 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation,

may not exceed $50,000,000,000.

"(2) OUTSTANDING OBLIGATION DEFINED.—For purposes of this subsection (other than paragraph (3)), the term 'outstanding obligation' includes—

"(A) any obligation or other liability assumed by the Corporation from the Federal Savings and Loan Insurance Corporation under this section or pursuant to any provision of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(B) any guarantee issued by the Corporation;

"(C) the total of the outstanding amounts borrowed from the Secretary of the Treasury pursuant to subsection (i); and

"(D) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(3) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of any obligation issued by the Corporation, with respect to both principal and interest, if—

"(A) the principal amount of such obligation is stated in the obligation; and

"(B) the term to maturity or the date of maturity of such obligation is stated in the obligation.

"(4) ESTIMATES OF COSTS OF CONTINGENT LIABILITIES REQUIRED.—

"(A) IN GENERAL.—The Corporation shall—

"(i) estimate the cost to such Corporation of any contingent liability of the Corporation; and

"(ii) at least once each calendar quarter, make such adjustment as is appropriate in the estimate of such cost.

"(B) INCLUSION IN FINANCIAL STATEMENTS AND OUTSTANDING OBLIGATIONS.—The estimated amount of the cost to the Corporation of any contingent liability of the Corporation (taking into account the most recent adjustment to such estimate pursuant to paragraph (A)(ii)) shall be—

"(i) treated as an outstanding obligation of the Corporation for purposes of this subsection; and

"(ii) included in any financial statement of the Corporation.

"(k) REPORTING AND DISCLOSURE OBLIGATIONS.—

"(1) AUDITS.—

"(A) ANNUAL AUDIT.—The Comptroller General shall audit annually the financial statements of the Corporation in accordance with generally accepted Government auditing standards unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that the Comptroller General will not perform such audit for that fiscal year. In the event of such notification, the Oversight Board shall contract with an independent certified public accountant to perform the annual audit of the Corporation's financial statement in accordance with generally accepted Government auditing standards. Contracts.

"(B) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, or the Oversight Board, or by an independent certified public accountant retained to audit

the Corporation's financial statement, shall be made available to the Comptroller General.

"(2) PUBLIC DISCLOSURE OF TRANSACTIONS.—

Public information.

"(A) DISCLOSURE REQUIRED.—Except as otherwise provided in this subsection, the Corporation shall make available to the public—

"(i) any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act, not later than 30 days after the first meeting of the Oversight Board after such agreement is entered into; and

"(ii) all agreements relating to cases reviewed by the Corporation pursuant to subsection (b)(11)(B).

"(B) EXCEPTION FOR DISCLOSURES AGAINST THE PUBLIC INTEREST.—

"(i) IN GENERAL.—The Oversight Board may withhold from public disclosure any document or part of a document if the Oversight Board determines, by a unanimous affirmative vote of the members of the Board, that disclosure would be contrary to the public interest.

"(ii) REPORT OF DETERMINATION.—A written report shall be made of any determination by the Oversight Board to withhold any part of a document from public disclosure pursuant to clause (i). Such report shall contain a full explanation of the specific reasons for such determination.

"(iii) PUBLICATION AND SUBMISSION OF REPORT.—The report prepared pursuant to clause (ii) shall be—

Federal Register, publication.

"(I) published in the Federal Register; and

"(II) transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(C) AGREEMENT DEFINED.—For purposes of this subsection, the term 'agreement' includes—

"(i) all documents which effectuate the terms and conditions of the assisted transaction;

"(ii) a comparison, which the Corporation shall prepare of—

"(I) the estimated cost of the transaction, with

"(II) the estimated cost of liquidating the insured institution; and

"(iii) a description of any economic or statistical assumptions on which such estimates are based.

"(3) DISCLOSURE TO CONGRESS OF TRANSACTIONS.—

"(A) PROSPECTIVE TRANSACTIONS.—The Corporation shall make available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into. The foregoing requirement is in addition to the Cor-

poration's obligation to make such agreements publicly available pursuant to paragraph (2).

"(B) PRIOR TRANSACTIONS.—The Corporation shall submit a report to the Oversight Board and the Congress containing the results and conclusions of the review of the 1988 transactions conducted pursuant to subsection (b)(11)(B) and such recommendations for legislative action as the Corporation may determine to be appropriate.

"(4) ANNUAL REPORTS.—

"(A) IN GENERAL.—The Oversight Board and the Corporation shall annually submit a full report of their respective operations, activities, budgets, receipts, and expenditures for the preceding 12-month period.

"(B) CONTENTS.—The report required under subparagraph (A) shall include—

"(i) audited statements and such information as is necessary to make known the financial condition and operations of the Corporation in accordance with generally accepted accounting principles;

"(ii) the Corporation's financial operating plans and forecasts (including budgets, estimates of actual and future spending, and estimates of actual and future cash obligations) taking into account the Corporation's financial commitments, guarantees, and other contingent liabilities;

"(iii) the number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors; and

"(iv) a list of the properties sold to State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989), the individual purchase prices of such properties, and an estimate of the premium paid by such authorities for such properties.

"(C) SUBMISSION TO CONGRESS AND THE PRESIDENT.—The Corporation shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which such report is made but not later than June 30 of the year following such calendar year.

"(5) ADDITIONAL REPORTS.—

"(A) REPORTS REQUIRED.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to Congress not later than April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(B) CONTENTS OF REPORT.—Each semiannual report required under subparagraph (A) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions described in subsection (b)(3)(A):

"(i) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(ii) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(iii) The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board at the beginning and end of the reporting period.

"(iv) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(I) contracting with, supervising, or reviewing the performance of private contractors, or

"(II) managing or disposing of such assets.

"(v) A statement of the total amount expended on private contractors for the management of such assets.

"(vi) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation or the Federal Deposit Insurance Corporation.

"(vii) The total book value and total proceeds from such assets disposed of during the reporting period.

"(viii) Summary data on discounts from book value at which such assets were sold or otherwise disposed of during the reporting period.

"(ix) A list of all of the areas that carried a distressed area designation during the reporting period (including a justification for removal of areas from or addition of areas to the list of distressed areas).

"(x) An evaluation of market conditions in distressed areas and a description of any changes in conditions during the reporting period.

"(xi) Any change adopted by the Oversight Board in a minimum disposition price and the reasons for such change.

"(xii) The valuation method or methods adopted by the Oversight Board or the Corporation to value assets and the reasons for selecting such methods.

"(6) APPEARANCES BEFORE CONGRESSIONAL COMMITTEES.—

"(A) SEMIANNUAL APPEARANCE REQUIRED.—Not later than 30 days after submission of the semiannual reports required by paragraph (5), the Oversight Board shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to—

Reports.

"(i) report on the progress made during such period in resolving cases involving institutions described in subsection (b)(3)(A);

"(ii) provide an estimate of the short-term and long-term cost to the United States Government of obligations issued or incurred during such period;

"(iii) report on the progress made during such period in selling assets of institutions described in subsection (b)(3)(A) and the impact such sales are having on the local markets in which such assets are located; Reports.

"(iv) describe the costs incurred by the Corporation in issuing obligations, managing and selling assets acquired by the Corporation;

"(v) provide an estimate of the income of the Corporation from assets acquired by the Corporation;

"(vi) provide an assessment of any potential source of additional funds for the Corporation; and

"(vii) provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(3)(A) which, in the Oversight Board's estimation, will require assistance or liquidation after the end of such period.

"(7) APPEARANCES CONCERNING START-UP OF CORPORATION.—

"(A) APPEARANCE REQUIRED.—Before January 31, 1990, the Oversight Board and the Corporation shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate for the purposes described in subparagraph (B).

"(B) PURPOSES OF APPEARANCE.—In connection with the appearance of the Oversight Board and the Corporation required by subparagraph (A), the Oversight Board and the Corporation shall—

"(i) describe the strategic plan established for the operations of the Corporation;

"(ii) describe the policies and procedures established or proposed to be established for the Corporation, including specific measures taken to avoid political favoritism or undue influence with respect to the activities of the Corporation;

"(iii) provide any regulation proposed to be prescribed by the Corporation; and

"(iv) provide the proposed case resolution schedule.

"(l) POWER TO REMOVE; JURISDICTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

"(2) CORPORATION AS PARTY.—The Corporation shall be substituted as a party in any civil action, suit, or proceeding to which its predecessor in interest was a party with respect to institutions which are subject to the management agreement dated February 7, 1989, among the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation.

"(3) REMOVAL AND REMAND.—The Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia, or if the action, suit, or proceeding arises

out of the actions of the Corporation with respect to an institution for which a conservator or a receiver has been appointed, the United States district court for the district where the institution's principal business is located. The removal of any action, suit, or proceeding shall be instituted—

"(A) not later than 90 days after the date the Corporation is substituted as a party, or

"(B) not later than 30 days after the date suit is filed against the Corporation, if such suit is filed after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The Corporation may appeal any order of remand entered by a United States district court.

"(m) INTERVENTION BY OVERSIGHT BOARD IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Oversight Board has the ultimate authority to supervise the Corporation and is ultimately accountable for the administration of the Corporation. The Oversight Board is authorized to remove the Federal Deposit Insurance Corporation (or any replacement) from its position as exclusive manager of the Corporation and from all of its responsibilities and authorities to act for the Corporation, in any case where the Oversight Board determines that any of the following extraordinary events has occurred:

"(A) There has been a material failure of the Corporation to adhere to the strategic plan developed pursuant to subsection (a)(14).

"(B) There has been a material failure of the Corporation to meet its financial goals, including over-commitment of financial resources.

"(C) There is evidence of fraud, abuse, gross mismanagement in the Corporation's programs or activities, or willful violation of this Act or the Corporation's policies or procedures.

"(D) There is a continuing failure to obtain consideration at least nearly equivalent to the market value of the assets sold or otherwise transferred by the Corporation.

"(2) PROCEDURE.—Any decisions made or action taken by the Oversight Board under paragraph (1) shall be made or taken at an open meeting of the Oversight Board and the Oversight Board shall document its reasons for such actions or decisions.

"(3) NOTIFICATION TO CONGRESS.—Within 30 days of the meeting of the Oversight Board described in paragraph (2) and not later than 90 days before the removal of the Federal Deposit Insurance Corporation pursuant to paragraph (1), the Oversight Board shall notify Congress of any decision made or action taken pursuant to such paragraph and provide written documentation of its decision, including any supporting documentation relied on by the Oversight Board.

"(n) OPERATION OF CORPORATION AFTER EXERCISE OF POWERS UNDER SUBSECTION (m).—If the Oversight Board exercises authority under subsection (m), the Oversight Board shall—

"(1) develop an operations and management plan for the Corporation, including a detailed description of the employment and retention procedures for the Corporation and the classification standards for employment positions for the Corporation

and the compensation rates and benefits established for each class of positions, all of which shall be subject to the provisions of subsection (a)(5);

"(2) select a Board of Directors and a chief executive officer for the Corporation; and

"(3) provide to Congress, not later than 60 days before the removal of the Federal Deposit Insurance Corporation, the operations and management plan developed pursuant to paragraph (1) and the identity of the Board of Directors and the chief executive officer selected pursuant to paragraph (2).

"(o) TERMINATION.—

"(1) IN GENERAL.—The Corporation shall terminate not later than December 31, 1996. If at the time of its termination, the Corporation is acting as a conservator or receiver, the Federal Deposit Insurance Corporation shall succeed the Corporation as conservator or receiver.

"(2) CASE RESOLUTIONS TRANSFERRED.—Simultaneous with the termination of the Corporation as provided in paragraph (1), all assets and liabilities of the Corporation shall be transferred to the FSLIC Resolution Fund. Thereafter the FSLIC Resolution Fund shall transfer any net proceeds from the sale of assets to the Resolution Funding Corporation.

"(p) CONFLICT OF INTEREST.—

"(1) IN GENERAL.—

"(A) The Oversight Board and the Corporation shall each be an 'agency' for purposes of title 18, United States Code. Any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Oversight Board or the Corporation, under the direct supervision of an officer or employee of the Oversight Board or the Corporation, shall be deemed to be an employee of the Oversight Board or the Corporation for the purposes of title 18, United States Code and this Act.

"(B) Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation shall be deemed to be a public official for the purposes of section 201 of title 18, United States Code.

"(2) ESTABLISHMENT OF RULES.—The Oversight Board and the Corporation shall, not later than 180 days after the date of enactment of this subsection, promulgate rules and regulations governing conflict of interest, ethical responsibilities, and post-employment restrictions applicable to members, officers, and employees of the Oversight Board and the Corporation that shall be no less stringent than those applicable to the Federal Deposit Insurance Corporation. Regulations.

"(3) USE OF CONFIDENTIAL INFORMATION.—The Oversight Board and the Corporation shall, not later than 180 days after the date of enactment of this subsection, promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41, United States Code. Regulations.

"(4) POST EMPLOYMENT.—The chief executive officer of the Corporation shall be prohibited for a period of 1 year after leaving the Corporation from holding any office, position, or employment with, or receiving remuneration from, a company (other than the Corporation) which, during the time the chief

executive was employed by the Corporation, participated in any case resolution or contract with the Corporation for which such person was either responsible or in which such person was personally and substantially involved except that the chief executive officer may hold any office, position, or employment so long as the chief executive officer does not, during the 1-year period, provide advice with respect to, participate in decisions relating to, or otherwise provide assistance to such entity on the enumerated matters or receive remuneration with respect thereto from such company.

"(5) OTHER AGENCY EMPLOYEES.—Directors, officers, and employees of the Oversight Board and the Corporation who are also subject to the ethical rules of another agency or Government Corporation shall file with the Corporation a copy of any financial disclosure statement required by such other agency or corporation.

"(6) DISAPPROVAL OF CONTRACTORS.—

Regulations.

"(A) IN GENERAL.—The Oversight Board shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

"(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from—

"(i) entering into any contract with the Corporation; or

"(ii) being employed by the Corporation or any person performing any service for or on behalf of the Corporation.

"(C) INFORMATION REQUIRED TO BE SUBMITTED.—The procedures established under subparagraph (A) shall require that any offer submitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include—

"(i) a list and description of any instance during the preceding 5 years in which the person or company under such person's control defaulted on a material obligation to an insured depository institution; and

"(ii) such other information as the Board may prescribe by regulation.

"(D) SUBSEQUENT SUBMISSIONS.—No offer submitted to the Corporation may be accepted unless the offeror agrees that no person will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless all applicable information described in subparagraph (C) with respect to any such person is submitted to the Corporation and the Corporation does not disapprove of the direct or indirect employment of such person. Any decision made by the Corporation pursuant to this paragraph shall be in its sole discretion and shall not be subject to review.

"(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

"(i) been convicted of any felony,

"(ii) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

"(iii) demonstrated a pattern or practice of defalcation regarding obligations to insure depository institutions, or

"(iv) caused a substantial loss to Federal deposit insurance funds,

from service on behalf of the Corporation.

"(7) ABROGATION OF CONTRACTS.—The Oversight Board or the Corporation may rescind any contract with a person who—

"(A) fails to disclose a material fact to the Oversight Board or the Corporation,

"(B) would be prohibited under paragraph (6) from providing services to, receiving fees from, or contracting with the Corporation or the Oversight Board, or

"(C) has been subject to a final enforcement action by any Federal bank regulatory agency.

"(8) PRIORITY OF OVERSIGHT BOARD RULES.—To the extent that the rules established under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation or the Oversight Board, who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the rules and regulations established by the Oversight Board under this subsection when acting for or on behalf of the Corporation.

"(9) DEFINITIONS.—For the purposes of this subsection—

"(A) The term 'company' has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956.

"(B) The term 'control' has the same meaning given such term under regulations promulgated by the Federal Home Loan Bank Board with respect to savings and loan holding companies as in effect on the day before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(C) The term 'Corporation' includes the Resolution Trust Corporation, the national advisory board, and the regional advisory boards.".

(b) INSPECTOR GENERAL OF THE CORPORATION.—

(1) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting "the Oversight Board and the Board of Directors of the Resolution Trust Corporation" before "; as the case may be,"; and

(B) in paragraph (2), by inserting "the Resolution Trust Corporation," after "the Railroad Retirement Board,".

(2) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—

(A) IN GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Inspector General, Resolution Trust Corporation.".

(B) APPROPRIATION.—There is hereby authorized to be appropriated such sums as may be necessary for the oper-

ation of the Office of Inspector General established by the amendment made by paragraph (1) of this subsection.

(c) CONFORMING AMENDMENTS TO TITLE 5.—Section 5313 of title 5, United States Code, is amended by adding at the end thereof:

"Independent Members, Oversight Board, Resolution Trust Corporation.".

(d) MIXED-OWNERSHIP GOVERNMENT CORPORATION.—Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof:

"(L) the Resolution Trust Corporation.".

(e) CONFORMING AMENDMENTS TO URBAN HOMESTEADING PROGRAM AND HOUSING ACT OF 1949.—

(1) URBAN HOMESTEADING.—Section 810(g) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(g)) is amended by adding at the end the following new paragraph:

"(3) The Secretary is authorized to reimburse the Resolution Trust Corporation, in an amount to be agreed upon by the Secretary and the Corporation, for property that the Corporation conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.".

42 USC 1487.

(2) HOUSING ACT OF 1949.—Section 517 of the Housing Act of 1949 (42 U.S.C. 1987) is amended by adding after subsection (m) the following new subsection:

"(n) The Secretary may guarantee and service loans made for the purchase of eligible residential properties under section 21A(c) of the Federal Home Loan Bank Act in accordance with subsection (d) of this section and the last sentence of section 521(a)(1)(A).".

Reports.
12 USC 1441a note.

(f) GAO EXAMINATION OF CERTAIN FSLIC RESOLUTIONS.—Notwithstanding any other provision of this Act, the Comptroller General of the United States shall examine and monitor all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation from January 1, 1988, through the date of the enactment of this Act, and not later than April 30, 1990, shall report to Congress with an estimate of the costs of the agreements entered into by the Corporation pursuant to such resolutions. Not less than annually thereafter, the last report being due on April 30, 1992, the Comptroller General shall provide Congress with revisions to such estimates, to take into account any new information that he obtains with regard to such agreements.

Subtitle B—Resolution Funding Corporation

SEC. 511. RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21A the following new section:

12 USC 1441b.

"SEC. 21B. RESOLUTION FUNDING CORPORATION ESTABLISHED.

"(a) PURPOSE.—The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this Act.

"(b) ESTABLISHMENT.—There is established a corporation to be known as the Resolution Funding Corporation.

"(c) MANAGEMENT OF FUNDING CORPORATION.—

"(1) DIRECTORATE.—The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

"(A) The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).

"(B) 2 members selected by the Oversight Board from among the presidents of the Federal Home Loan Banks.

"(2) TERMS.—Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

"(3) VACANCY.—If any member leaves the office in which such member was serving when appointed to the Directorate—

"(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

"(B) the successor to the office of such member shall serve the remainder of such member's term.

"(4) EQUAL REPRESENTATION OF BANKS.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

"(5) CHAIRPERSON.—The Oversight Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

"(6) STAFF.—

"(A) NO PAID EMPLOYEES.—The Funding Corporation shall have no paid employees.

"(B) POWERS.—The Directorate may, with the approval of the Federal Housing Finance Board authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

"(7) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (computed without regard to paragraphs (3) or (6) of such subsection); by

"(ii) the aggregate amount the Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

"(8) REGULATION BY OVERSIGHT BOARD.—The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Oversight Board may prescribe.

"(9) NO COMPENSATION FROM FUNDING CORPORATION.—Members of the Directorate of the Funding Corporation shall receive

no pay, allowance, or benefit from the Funding Corporation for serving on the Directorate.

"(d) POWERS OF THE FUNDING CORPORATION.—The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, and directions as the Oversight Board may prescribe:

"(1) ISSUE STOCK.—To issue nonvoting capital stock to the Federal Home Loan Banks.

"(2) PURCHASE CAPITAL STOCK; TRANSFER AMOUNTS.—To purchase capital certificates issued by the Resolution Trust Corporation under section 21A, and to transfer amounts to the Resolution Trust Corporation pursuant to subsection (e)(8) of this section.

"(3) ISSUE OBLIGATIONS.—To issue debentures, bonds, or other obligations, and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

"(4) IMPOSE ASSESSMENTS.—To impose assessments in accordance with subsection (e)(7).

"(5) CORPORATE SEAL.—To adopt, alter, and use a corporate seal.

"(6) SUCCESSION.—To have succession until dissolved.

"(7) CONTRACTS.—To enter into contracts.

"(8) AUTHORITY TO SUE.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

"(9) INCIDENTAL POWERS.—To exercise such incidental powers not inconsistent with the provisions of this section and section 21A as are necessary and appropriate to carry out the provisions of this section.

"(e) CAPITALIZATION OF FUNDING CORPORATION, ETC.—

"(1) IN GENERAL.—

"(A) AMOUNT REQUIRED.—The Oversight Board shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that—

"(i) the Funding Corporation may transfer the amounts required under paragraph (8); and

"(ii) the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(B) PURCHASES OF STOCK BY FEDERAL HOME LOAN BANKS.—Each Federal Home Loan Bank shall purchase stock in the Funding Corporation at times and in amounts prescribed by the Oversight Board.

"(2) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Funding Corporation to a Federal Home Loan Bank shall have a par value in an amount determined by the Oversight Board and shall be transferable at not less than par value only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Oversight Board.

"(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation

by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

"(A) RESERVES AND UNDIVIDED PROFITS ON DECEMBER 31, 1988.—The sum on December 31, 1988, of—

"(i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

"(ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 21.

"(B) SUBSEQUENT ADDITIONS TO RESERVES AND UNDIVIDED PROFITS.—The amount, calculated until the date on which the Funding Corporation Principal Fund is fully funded, equal to—

"(i) the sum of—

"(I) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

"(II) the quarterly additions to undivided profits of the Bank after December 31, 1988; minus

"(ii) the amounts invested by such Bank in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 21.

"(C) ANNUAL ADJUSTMENT.—The amounts in subparagraph (B) shall be adjusted as follows:

"(i) INCREASE IN LIMIT.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is less than $300,000,000 per year, the limit for each Bank shall be increased by an amount determined by the Oversight Board by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

"(ii) DECREASE IN LIMIT.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is more than $300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Oversight Board by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

"(4) PRO RATA DISTRIBUTION OF FIRST $1,000,000,000 INVESTED IN FUNDING CORPORATION BY FEDERAL HOME LOAN BANKS.—Of the first $1,000,000,000 of the aggregate that the Federal Housing Finance Board (pursuant to section 21) or the Oversight Board (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or invest in the capital stock of the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest shall be determined by the Federal Housing Finance Board or the Oversight Board (as the case may be) by multiplying the aggregate

amount of such investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—Of any amount which the Oversight Board may require the Federal Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the $1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members which are members of such Bank; by

"(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members which are members of a Federal Home Loan Bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a 'deficient Bank') under paragraph (3) at the time of such determination (in this paragraph referred to as the 'excess amount')—

"(i) the Oversight Board shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a 'remaining Bank') to purchase stock in the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);

"(ii) the Oversight Board shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and

"(iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING FEDERAL HOME LOAN BANKS.—

"(i) IN GENERAL.—The amount of stock each remaining Federal Home Loan Bank shall be required to purchase under subparagraph (A)(i) is the amount determined by the Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

"(I) the cumulative amount of stock in the Funding Corporation purchased under this subsection by such remaining Bank at the time of such determination; by

"(II) the aggregate of the cumulative amounts invested under this subsection by all remaining Banks at such time.

"(ii) REALLOCATION.—If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

"(C) REIMBURSEMENT PROCEDURE.—

"(i) IN GENERAL.—A Bank on whose behalf stock is purchased under subparagraph (A)(i) shall make payments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts invested by other Banks plus interest which shall accrue at a rate equal to the annual average cost of funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the investments under subparagraph (A)(i) are made.

"(ii) DETERMINATION OF AMOUNTS.—The Oversight Board shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made purchases on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks invested.

"(D) TRANSFER TO ACCOUNT FOR REIMBURSEMENTS REQUIRED.—

"(i) IN GENERAL.—Of the net earnings for any year of a Bank on whose behalf a purchase is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Oversight Board), which shall be available only for such reimbursements.

"(ii) LIMITATION.—The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

"(7) ADDITIONAL SOURCES.—If each Federal Home Loan Bank has exhausted the amount applicable with respect to the Bank

under paragraph (3) after purchases under paragraphs (4), (5), and (6), the amounts necessary to provide additional funding for the Funding Corporation Principal Fund shall be obtained from the following sources:

"(A) ASSESSMENTS.—The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act) except that—

"(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

"(ii) the sum of—

"(I) the amount assessed under this subparagraph; and

"(II) the amount assessed by the Financing Corporation under section 21;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(iii) the Financing Corporation shall have first priority to make the assessment; and

"(iv) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

"(B) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer amounts to the Funding Corporation from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships.

"(8) TRANSFER TO RTC.—The Funding Corporation shall transfer to the Resolution Trust Corporation $1,200,000,000 in fiscal year 1989.

"(f) OBLIGATIONS OF FUNDING CORPORATION.—

"(1) ISSUANCE.—The Funding Corporation may issue bonds, notes, debentures, and similar obligations in an aggregate amount not to exceed $30,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

"(2) INTEREST PAYMENTS.—The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

"(A) EARNINGS ON CERTAIN ASSETS.—Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for in-

terest payments on outstanding debt of the Funding Corporation.

"(B) PROCEEDS FROM RESOLUTION TRUST CORPORATION.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

"(i) the liquidating dividends and payments made on claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Oversight Board to be in excess of funds presently necessary for resolution costs; and

"(ii) any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, the Federal Home Loan Banks shall pay to the Funding Corporation each calendar year the aggregate amount of $300,000,000 minus the amounts required in such year for Financing Corporation principal payments (pursuant to section 21) and the amounts required in such year by the Funding Corporation pursuant to subsection (e). Each Bank's individual share of any amounts required to be paid by the Banks under this subparagraph shall be determined as follows:

"(i) AMOUNTS UP TO 20 PERCENT OF NET EARNINGS.—Each Federal Home Loan Bank shall pay an equal percentage of its net earnings for the year for which such amount is required to be paid, up to a maximum of 20 percent of net earnings.

"(ii) AMOUNTS IN EXCESS OF 20 PERCENT OF NET EARNINGS.—If the aggregate amount required to be paid by the Federal Home Loan Banks under this subparagraph for any year exceeds 20 percent of the aggregate net earnings of the Banks for such year, each Bank shall pay 20 percent of its net earnings for such year as provided in clause (i), and each Bank's individual share of the excess of the required amount over 20 percent of the aggregate net earnings of the Banks for such year shall be determined by dividing—

"(I) the average month-end level in the prior year of advances outstanding by such Bank to Savings Associations Insurance Fund members; by

"(II) the average month-end level in the prior year of advances outstanding by all such Banks to Savings Associations Insurance Fund members.

"(D) PROCEEDS FROM SALE OF ASSETS.—To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

"(E) TREASURY BACKUP.—

"(i) IN GENERAL.—To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary of the Treasury shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

"(ii) LIABILITY OF FUNDING CORPORATION.—In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

"(iii) APPROPRIATION OF FUNDS.—There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

"(3) PRINCIPAL PAYMENTS.—On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

"(4) PROCEEDS TO BE TRANSFERRED TO RESOLUTION TRUST CORPORATION.—Subject to terms and conditions approved by the Oversight Board, the proceeds (less any discount, plus any premium, net of issuance costs) of any obligation issued by the Funding Corporation shall be used to—

"(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 21A; or

"(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

"(5) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Funding Corporation, at the direction of the Oversight Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

"(6) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Funding Corporation.

"(7) TAX EXEMPT STATUS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13 of this Act.

"(B) EXCEPTION.—The Funding Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

"(8) OBLIGATIONS NOT EXEMPT SECURITIES.—

"(A) IN GENERAL.—For purposes of the laws administered by the Securities and Exchange Commission, obligations of the Funding Corporation—

"(i) shall not be considered to be securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States; and

"(ii) shall not be considered to be 'exempted securities' within the meaning of section 3(a)(12)(A)(i) of the Securities Exchange Act of 1934, except that such obligations shall be considered to be exempted securities for purposes of section 15 of such Act.

"(B) AUTHORITY OF COMMISSION.—Notwithstanding subparagraph (A), the Securities and Exchange Commission may, by rule or order, consistent with the public interest and the protection of investors, exempt securities issued by the Funding Corporation from the registration requirements of the Securities Act of 1933, subject to such terms and conditions as the Commission may prescribe.

"(9) MINORITY PARTICIPATION IN PUBLIC OR NEGOTIATED OFFERINGS.—The Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

"(10) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Funding Corporation shall not be obligations of, or guaranteed as to principal by, the Federal Home Loan Bank System, the Federal Home Loan Banks, the United States, or the Resolution Trust Corporation and the obligations shall so plainly state. The Secretary shall pay interest on such obligations as required pursuant to this subsection.

"(g) USE AND DISPOSITION OF ASSETS OF FUNDING CORPORATION NOT TRANSFERRED TO RESOLUTION TRUST CORPORATION.—

"(1) IN GENERAL.—Subject to regulations, restrictions, and limitations prescribed by the Oversight Board, assets of the Funding Corporation which are not required to be invested in capital certificates issued by the Resolution Trust Corporation under section 21A and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

"(2) SEPARATE ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ENSURE PAYMENT OF PRINCIPAL.—Except as provided in subsection (e)(8), the Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

"(A) which are direct obligations of the United States issued by the Secretary; and

"(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(h) MISCELLANEOUS PROVISIONS.—

"(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (f)(7)(B), the Funding Corporation shall be treated

as a Federal Home Loan Bank for purposes of section 13 (to the extent such section relates to State, municipal, and local taxation) and section 23.

"(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATIONS.—The Funding Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(4) JURISDICTION AND POWER TO REMOVE.—

"(A) FEDERAL COURT JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

"(B) REMOVAL.—The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—The Oversight Board shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

"(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

"(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

"(3) SUBMISSION TO CONGRESS AND PRESIDENT.—The Oversight Board shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

"(j) TERMINATION OF FUNDING CORPORATION.—

"(1) IN GENERAL.—The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

"(2) AUTHORITY OF OVERSIGHT BOARD TO CONCLUDE AFFAIRS OF FUNDING CORPORATION.—Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Oversight

Board may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

"(k) DEFINITIONS.—For purposes of this section:

"(1) ADMINISTRATIVE EXPENSES.—The term 'administrative expenses' does not include—

"(A) any interest on, or any redemption premium with respect to, any obligation of the Funding Corporation; or

"(B) issuance costs.

"(2) CUSTODIAN FEE.—The term 'custodian fee' means—

"(A) any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g); and

"(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

"(3) FUNDING CORPORATION.—The term 'Funding Corporation' means the Resolution Funding Corporation established in subsection (b).

"(4) FUNDING CORPORATION PRINCIPAL FUND.—The term 'Funding Corporation Principal Fund' means the separate account established under subsection (g)(2).

"(5) ISSUANCE COSTS.—The term 'issuance costs'—

"(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

"(B) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

"(6) NET EARNINGS.—The term 'net earnings' means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Oversight Board under subsections (e) and (f).

"(7) OVERSIGHT BOARD.—The term 'Oversight Board' means—

"(A) the Oversight Board of the Resolution Trust Corporation under section 21A; and

"(B) after the termination of the Resolution Trust Corporation—

"(i) the Secretary of the Treasury;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System; and

"(iii) the Secretary of Housing and Urban Development.

"(8) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means a Savings Association Insurance member as such term is defined by section 7(l) of the Federal Deposit Insurance Act.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(10) UNDIVIDED PROFITS.—The term 'undivided profits' means earnings retained after dividends have been paid minus the sum of—

"(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 16; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7).

"(l) REGULATIONS.—The Oversight Board may prescribe any regulations necessary to carry out this section.".

(b) FUNDING CORPORATION AS MIXED-OWNERSHIP GOVERNMENT CORPORATION.—

(1) IN GENERAL.—Section 9101(2) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(M) the Resolution Funding Corporation.".

(2) ANNUAL GAO AUDIT.—

(A) IN GENERAL.—Section 9105(a)(2) of title 31, United States Code, is amended by adding at the end the following new sentence: "The Comptroller General shall audit the Resolution Funding Corporation annually.".

(B) CONFORMING AMENDMENT.—Section 9105(a)(2) of title 31, United States Code, is amended by striking "Federal Savings and Loan Insurance Corporation and".

SEC. 512. FINANCING CORPORATION.

Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) by striking "insured institution" each place it appears and inserting "Savings Association Insurance Fund member";

(2) by striking "Federal Home Loan Bank Board" and "Board" each place they appear and inserting "Federal Housing Finance Board";

(3) in subsection (c)(2), by inserting before the period the following: "prior to the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund";

(4) in subsection (c)(9) by striking "or section 402(b) of the National Housing Act";

(5) by amending the portion of subsection (d)(4) appearing before the table to read as follows: "Of the first $1,000,000,000 in the aggregate which the Oversight Board pursuant to section 21B or the Federal Housing Finance Board under this section (as the case may be) may require the Federal Home Loan Banks collectively to invest in the stock of the Funding Corporation or invest in the capital stock of the Financing Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Oversight Board or the Federal Housing Finance Board (as the case may be) by multiplying the aggregate amount of such payment or investment by all Banks by the percentage appearing in the following table for each such Bank:";

(6) in subsection (d)(5), by striking "$1,000,000,000 which the Board" and inserting "the $1,000,000,000 amount referred to in paragraph (4) which the Federal Housing Finance Board";

(7) in subsection (d)(6)(A)(iii), by striking "available for dividends";

(8) in subsection (d)(6)(D), by striking "available for dividends";

(9) in subsection (d)(6)(E), by striking "available for dividends";

(10) by striking subsection (d)(6)(F) and adding at the end of subsection (l) the following:

"(4) NET EARNINGS DEFINED.—The term 'net earnings' means net earnings without reduction for any chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation or the purchase of stock of the Funding Corporation required by the Oversight Board under subsections (e) and (f) of section 21B.";

(11) in subsection (e)(3)(A)—

(A) by striking "used to";

(B) by inserting "used to" before "purchase" and "refund"; and

(C) by inserting before the semicolon the following: "prior to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and thereafter transferred to the FSLIC Resolution Fund";

(12) in subsection (e)—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively, and

(B) in paragraph (6) as redesignated, by striking "the Federal Savings and Loan Insurance Corporation" and inserting "the FSLIC Resolution Fund";

(13) by striking subsection (f) and inserting the following:

"(f) SOURCES OF FUNDS FOR INTEREST PAYMENTS; FINANCING CORPORATION ASSESSMENT AUTHORITY.—The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

"(1) PREENACTMENT ASSESSMENTS.—The Financing Corporation assessments which were assessed on insured institutions pursuant to this section as in effect prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(2) NEW ASSESSMENT AUTHORITY.—To the extent the amounts available pursuant to paragraph (1) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, the Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation under section 7 of the Federal Deposit Insurance Act), except that—

"(A) the sum of—

"(i) the amount assessed under this paragraph; and

"(ii) the amount assessed by the Funding Corporation under section 21B;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(B) the Financing Corporation shall have first priority to make the assessment; and

"(C) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in subparagraph (A) of this paragraph.

"(3) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, and if the funds are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund under section 21B, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation, from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund (established under section 11A of the Federal Deposit Insurance Act) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.";

(14) in subsection (g)(1) by striking "National Housing Act," and inserting "National Housing Act before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and after such date in capital certificates issued by the FSLIC Resolution Fund,";

(15) in subsection (g), by inserting the following at the end of paragraph (2): "For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral.";

(16) in subsection (j), by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or"; and

(17) in subsection (l)—

(A) by striking paragraph (1) and inserting the following:

"(1) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means a savings association which is a Savings Association Insurance Fund member as defined by section 7(l) of the Federal Deposit Insurance Act."; and

(B) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

SEC. 601. ACQUISITION OF THRIFT INSTITUTIONS BY BANK HOLDING COMPANIES.

(a) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) ACQUISITION OF SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Board may approve an application by any bank holding company under subsection (c)(8) to acquire any savings association in accordance with the requirements and limitations of this section.

"(2) PROHIBITION ON TANDEM RESTRICTIONS.—In approving an application by a bank holding company to acquire a savings association, the Board shall not impose any restriction on transactions between the savings association and its holding company affiliates, except as required under sections 23A and 23B of the Federal Reserve Act or any other applicable law.".

(b) MODIFICATION OF PRIOR APPROVALS.—If the Board of Governors of the Federal Reserve System, in approving an application by a bank holding company to acquire a savings association, imposed any restriction that would have been prohibited under section 4(i)(2) of the Bank Holding Company Act of 1956 (as added by subsection (a) of this section) if that section had been in effect when the application was approved, the Board shall modify that approval in a manner consistent with that section. 12 USC 1843 note.

SEC. 602. TECHNICAL AMENDMENTS TO THE BANK HOLDING COMPANY ACT.

(a) DEFINITIONS.—Section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) is amended to read as follows:

"(j) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERM.—The term 'savings association' or 'insured institution' means—

"(1) any Federal savings association or Federal savings bank;

"(2) any building and loan association, savings and loan association, homestead association, or cooperative bank if such association or cooperative bank is a member of the Savings Association Insurance Fund; and

"(3) any savings bank or cooperative bank which is deemed by the Director of the Office of Thrift Supervision to be a savings association under section 10(l) of the Home Owners' Loan Act.".

(b) INSURANCE REQUIRED.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "an insured bank as defined in section 3(h)" and inserting "an insured depository institution as defined in section 3".

SEC. 603. PASSIVE INVESTMENTS BY COMPANIES CONTROLLING CERTAIN NONBANK BANKS.

(a) IN GENERAL.—Section 4(f)(2)(A)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)(ii)) is amended to read as follows:

"(ii) acquires control of more than 5 percent of the shares or assets of an additional bank or a savings association other than—

"(I) shares held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(II) shares held by any person as a bona fide fiduciary solely for the benefit of employees of either the company described in paragraph (1) or any subsidiary of that company and the beneficiaries of those employees;

"(III) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(IV) shares held in an account solely for trading purposes;

"(V) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(VI) loans or other accounts receivable acquired in the normal course of business;

"(VII) shares or assets acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit if the Board determines that such an extension will not be detrimental to the public interest;

"(VIII) shares or assets of a savings association described in paragraph (10) or (12) of this subsection;

"(IX) shares of a savings association held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940, except as provided in paragraph (11); and

"(X) shares issued in a qualified stock issuance under section 10(q) of the Home Owners' Loan Act;

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), (V), and (VIII)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association; or".

(b) TECHNICAL AMENDMENTS.—

(1) Section 4(f)(10) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(10)) is amended—

(A) by striking "and (ii)(V)" and inserting "and (ii)(VIII)"; and

(B) in subparagraph (A), by inserting "or section 13(k) of the Federal Deposit Insurance Act" after "National Housing Act".

(2) Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following:

"(11) SHARES HELD BY INSURANCE AFFILIATES.—Shares described in clause (ii)(IX) of paragraph (2)(A) shall not be excluded for purposes of clause (ii) of such paragraph if—

"(A) all shares held under such clause (ii)(IX) by all insurance company affiliates of such savings association in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association; or

"(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association.".

SEC. 604. PURCHASE OF MINORITY INTEREST IN UNDERCAPITALIZED SAVINGS ASSOCIATIONS BY HOLDING COMPANIES ALLOWED.

(a) AMENDMENT TO DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following new paragraph:

"(9) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act) which has issued stock in connection with a qualified stock issuance pursu-

ant to section 10(q) of such Act, except that this paragraph shall apply only with respect to service as a single management official of such savings association or holding company, or any subsidiary of such savings association or holding company, by a single management official of the savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the Director of the Office of Thrift Supervision has determined that such service is consistent with the purposes of this Act and the Home Owners' Loan Act.".

(b) AMENDMENTS TO BANK HOLDING COMPANY ACT.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) by adding at the end thereof the following new paragraphs:

"(12) EXEMPTION UNAFFECTED BY CERTAIN OTHER ACQUISITIONS.—For purposes of clauses (i) and (ii)(VIII) of paragraph (2)(A), an insured institution is described in this paragraph if the insured institution was acquired (or any shares or assets of such institution were acquired) by a company described in paragraph (1)—

"(A) from the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision, in any capacity; or

"(B) in an acquisition in which the insured institution has been found to be in danger of default (as defined in section 3 of the Federal Deposit Insurance Act) by the appropriate Federal or State authority.

"(13) SPECIAL RULE RELATING TO SHARES ACQUIRED IN A QUALIFIED STOCK ISSUANCE.—A company described in paragraph (1) that holds shares issued in a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act by any savings association or savings and loan holding company (neither of which is a subsidiary) shall not be deemed to control such savings association or savings and loan holding company solely because such company holds such shares unless—

"(A) the company fails to comply with any requirement or condition imposed by paragraph (2)(A)(ii)(X) or section 10(q) of the Home Owners' Loan Act with respect to such shares; or

"(B) the shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company."; and

(2) in clause (i) of paragraph (2)(A), by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (10) or (12)".

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

SEC. 701. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) BOARD.—The term 'Board' means the Federal Housing Finance Board established under section 2A.

"(2)(A) BANK.—The term 'Federal Home Loan Bank' or 'Bank' means a bank established under the authority of the Federal Home Loan Bank Act.

"(B) BANK SYSTEM.—The term 'Federal Home Loan Bank System' means the Federal Home Loan Banks under the supervision of the Board.";

(2) in paragraph (4) by striking "(except when used in reference to the member of the Board)"; and

(3) by striking paragraph (9) and adding at the end the following:

"(9) SAVINGS ASSOCIATION.—The term 'savings association' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act

"(10) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Board.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(12) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means—

"(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), and

"(B) except as used in sections 21A and 21B, an insured credit union (as defined in section 101 of the Federal Credit Union Act).".

(b) CHANGE IN TERMS.—

(1) IN GENERAL.—Except as otherwise specifically provided in this title, the Federal Home Loan Bank Act is amended by striking "board" (other than in section 7) and "Federal Home Loan Bank Board" each place such terms appear and inserting "Board".

12 USC 1421 *et seq.*

(2) CHAIRPERSON.—The Federal Home Loan Bank Act is amended by striking "Chairman" and "chairman" each place such terms appear and inserting "Chairperson" and "chairperson".

12 USC 1421 *et seq.*

(3) EXCEPTIONS.—

(A) GENERAL RULE.—The amendments made by paragraph (1) shall not apply to sections 18(c), 21A, and 21B of the Federal Home Loan Bank Act.

(B) CONFORMING AMENDMENT.—Section 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is amended by striking "Federal Home Loan Bank Board" and "board" each place such terms appear and inserting "Director of the Office of Thrift Supervision".

(c) TECHNICAL AMENDMENTS.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(2)(C), by inserting "Federal Home Loan" before "Banks,"; and

(2) in the first sentence of the third paragraph of subsection (i) by inserting "Federal" before "Home Loan Bank System".

SEC. 702. FEDERAL HOUSING FINANCE BOARD ESTABLISHED.

(a) IN GENERAL.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 2 the following new sections:

"SEC. 2A. FEDERAL HOUSING FINANCE BOARD. 12 USC 1422a.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the Federal Housing Finance Board, which shall succeed to the authority of the Federal Home Loan Bank Board with respect to the Federal Home Loan Banks.

"(2) STATUS.—The Board shall be an independent agency in the executive branch of the Government.

"(3) DUTIES.—The duties of the Board shall be—

"(A) to supervise the Federal Home Loan Banks,

"(B) to ensure that the Federal Home Loan Banks carry out their housing finance mission,

"(C) to ensure the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets, and

"(D) to ensure the Federal Home Loan Banks operate in a safe and sound manner.

"(b) MANAGEMENT.—

"(1) IN GENERAL.—The management of the Board shall be vested in a Board of Directors consisting of 5 directors as follows:

"(A) The Secretary who shall serve without additional compensation.

"(B) Four citizens of the United States, appointed by the President, by and with the advice and consent of the Senate, each of whom shall hold office for a term of 7 years.

"(2) PROVISIONS RELATING TO APPOINTED DIRECTORS.—

"(A) IN GENERAL.—The directors appointed pursuant to paragraph (1)(B) shall be from among persons with extensive experience or training in housing finance or with a commitment to providing specialized housing credit. An appointed director shall not hold any other appointed office during his or her term as director. Not more than 3 directors shall be members of the same political party. Not more than 1 appointed director shall be from any single district of the Federal Home Loan Bank System. Nominations pursuant to this subparagraph shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs.

"(B) CONSUMER REPRESENTATIVE.—At least 1 director shall be chosen from an organization with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

"(C) LIMITATIONS ON CONFLICTS OF INTEREST.—No director may—

"(i) serve as a director or officer of any Federal Home Loan Bank or any member of any Bank; or

"(ii) hold shares of, or any other financial interest in, any member of any such Bank.

"(3) INITIAL TERMS.—Notwithstanding paragraph (2), of the directors first appointed—

"(A) one shall be appointed for a term of 1 year;
"(B) one shall be appointed for a term of 3 years; and
"(C) one shall be appointed for a term of 5 years.

"(c) CHAIRPERSON; TRANSITIONAL PROVISIONS.—

President of U.S.

"(1) IN GENERAL.—The President shall designate 1 of the appointed directors to be the Chairperson of the Board. The Chairperson shall designate another director to serve as Acting Chairperson during the absence or disability of the Chairperson.

"(2) TRANSITIONAL PROVISION.—Beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, until such time that at least 2 directors are appointed and confirmed pursuant to subsection (b), the Secretary shall act for all purposes and with the full powers of the Board of Directors. The Secretary may utilize the services of employees from the Department of Housing and Urban Development to perform services for the Board of Directors during such transition period.

"(d) VACANCIES.—

"(1) IN GENERAL.—Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made. Any director appointed to fill a vacancy occurring before the expiration of the term for which such director's predecessor was appointed shall be appointed only for the remainder of such term. Each director may continue to serve until a successor has been appointed and qualified.

"(2) THE SECRETARY.—In the event of a vacancy in the office of Secretary or during the absence or disability of the Secretary, the Acting Secretary shall act as a director in place of the Secretary.

12 USC 1422b.

"SEC. 2B. POWERS AND DUTIES.

"(a) GENERAL POWERS.—The Board shall have the following powers:

"(1) To supervise the Federal Home Loan Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of this Act.

"(2) To suspend or remove for cause a director, officer, employee, or agent of any Federal Home Loan Bank or joint office. The cause of such suspension or removal shall be communicated in writing to such director, officer, employee, or agent and to such Bank or joint office. Notwithstanding any other provision of this Act, no officer, employee, or agent of a Bank or joint office shall be a Federal officer or employee under any definition of either term in title 5, United States Code.

"(3) To determine necessary expenditures of the Board under this Act and the manner in which such expenditures shall be incurred, allowed, and paid.

"(4) To use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

"(b) STAFF.—

"(1) BOARD STAFF.—Subject to title IV of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may employ, direct, and fix the compensation and number of employees, attorneys, and agents of the Federal Housing Finance Board, except that in no event shall the Board

delegate any function to any employee, administrative unit of any Bank, or joint office of the Federal Home Loan Bank System. The prohibition contained in the preceding sentence shall not apply to the delegation of ministerial functions including issuing consolidated obligations pursuant to section 11(b). In directing and fixing such compensation, the Board shall consult with and maintain comparability with the compensation at the Federal bank regulatory agencies. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States, except the Chairperson and other Directors shall be compensated as prescribed in sections 5314 and 5315 of title 5, United States Code, respectively.

"(2) ABOLITION OF JOINT OFFICES.—The joint or collective offices of the Federal Home Loan Bank System, except for the Office of Finance, are hereby abolished.

"(c) RECEIPTS OF THE BOARD.—Receipts of the Board derived from assessments levied upon the Federal Home Loan Banks and from other sources (other than receipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 11 of this Act) shall be deposited in the Treasury of the United States. Salaries of the directors and other employees of the Board and all other expenses thereof may be paid from such assessments or other sources and shall not be construed to be Government Funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or any other authority.

"(d) ANNUAL REPORT.—The Board shall make an annual report to the Congress.".

(b) AUDITS AND REPORTS.—Section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440) is amended by adding at the end the following: "In addition to such examinations, the Comptroller General may audit or examine the Board and the Banks, to determine the extent to which the Board and the Banks are fairly and effectively fulfilling the purposes of this Act.".

(c) APPOINTMENT OF INSPECTOR GENERAL.—Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Federal Home Loan Bank Board," and inserting "Federal Housing Finance Board,".

SEC. 703. TERMINATION OF THE FEDERAL HOME LOAN BANK BOARD.

(a) IN GENERAL.—Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is hereby repealed.

SEC. 704. ELIGIBILITY FOR MEMBERSHIP.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended to read as follows:

"(a) CRITERIA FOR ELIGIBILITY.—

"(1) IN GENERAL.—Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, or any insured depository institution (as defined in section 2 of this Act), shall be eligible to become a member of a Federal Home Loan Bank if such institution—

"(A) is duly organized under the laws of any State or of the United States;

"(B) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States; and

"(C) makes such home mortgage loans as, in the judgment of the Board, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Board, its time deposits, as defined in section 19 of the Federal Reserve Act, warrant its making such loans).

"(2) QUALIFIED THRIFT LENDER.—An insured depository institution that is not a member on January 1, 1989, may become a member of a Federal Home Loan Bank only if—

"(A) the insured depository institution has at least 10 percent of its total assets in residential mortgage loans;

"(B) the insured depository institution's financial condition is such that advances may be safely made to such institution; and

"(C) the character of its management and its home-financing policy are consistent with sound and economical home financing.

An insured depository institution commencing its initial business operations after January 1, 1989, may become a member of a Federal Home Loan Bank if it complies with regulations and orders prescribed by the Board for the 10 percent asset requirement (described in the preceding sentence) within one year after the commencement of its operations.".

(c) REPEAL OF SECTION 27.—Section 27 of the Federal Home Loan Bank Act (12 U.S.C. 1447) is hereby repealed.

SEC. 705. REPEAL OF PROVISION RELATING TO RATE OF INTEREST ON DEPOSITS.

Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is hereby repealed.

SEC. 706. CAPITAL STOCK.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended—

(1) by striking subsections (a), (e), (f), and (g) and redesignating subsections (b), (c), (d), (h), (i), (j), (k), and (m) as subsections (a), (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by striking the second sentence of subsection (e) (as redesignated by paragraph (1) of this section) and inserting the following: "If any member's membership in a Federal Home Loan Bank is terminated, the indebtedness of such member to the Federal Home Loan Bank shall be liquidated in an orderly manner (as determined by the Federal Home Loan Bank), and upon completion of such liquidation, the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled. Any such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties or other fees applicable to such prepayment."; and

(3) in subsection (h) (as redesignated by paragraph (1) of this section), by striking "charter" and all that follows through the end period and inserting "charter as a Federal savings association (as defined in section 3 of the Federal Deposit Insurance Act).".

SEC. 707. ELECTION OF BANK DIRECTORS.

Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) in subsection (a)—

(A) by striking "appointed by the Federal Home Loan Bank Board referred to in subsection (b) of section 17, hereinafter in this section referred to as the Board" and inserting "appointed by the Board referred to in section 2A",

(B) by inserting after the last sentence the following: "At least 2 of the Federal Home Loan Bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. No Federal Home Loan Bank director who is appointed pursuant to this subsection may, during such Bank director's term of office, serve as an officer of any Federal Home Loan Bank or a director or officer of any member of a Bank, or hold shares, or any other financial interest in, any member of a Bank.";

(2) by inserting after the first sentence of subsection (b) the following: "No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director.";

(3) by amending subsection (f) to read as follows:

"(f) VACANCIES.—

"(1) IN GENERAL.—A Bank director appointed or elected to fill a vacancy shall be appointed or elected for the unexpired term of his or her predecessor in office.

"(2) APPOINTED BANK DIRECTORS.—In the event of a vacancy in any appointive Bank directorship, such vacancy shall be filled through appointment by the Board for the unexpired term. If any appointive Bank director shall cease to have the qualifications set forth in subsection (a), the office held by such person shall immediately become vacant, but such person may continue to act as a Bank director until his or her successor assumes the vacated office or the term of such office expires, whichever occurs first.

"(3) ELECTED BANK DIRECTORS.—In the event of a vacancy in any elective Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any elective Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant, and such person shall not continue to act as a Bank director."; and

(4) by adding at the end the following new subsection:

"(k) INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES.—The board of directors of each Bank shall determine the terms and conditions under which such Bank may indemnify its directors, officers, employees or agents.".

SEC. 708. REPEAL OF PROVISIONS RELATING TO CERTAIN POWERS OF THE FEDERAL HOME LOAN BANK BOARD.

Section 19 of the Federal Home Loan Bank Act (12 U.S.C. 1439) is hereby repealed.

SEC. 709. POWERS AND DUTIES OF BANKS.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(1), by inserting "incidental to activities" after "not";

(2) in subsection (f), by striking out "or whenever in the judgment of at least 4 members of the board an emergency exists requiring such action";

(3) by amending subsection (k) to read as follows:

"(k) BANK LOANS TO SAIF.—

"(1) LOANS AUTHORIZED.—Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the Savings Association Insurance Fund.

"(2) LIABILITY OF THE FUND.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the Savings Association Insurance Fund.

"(3) INTEREST ON AND SECURITY FOR SUCH LOANS.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall—

"(A) bear a rate of interest not less than such Bank's current marginal cost of funds, taking into account the maturities involved; and

"(B) be adequately secured.".

SEC. 710. ELIGIBILITY OF BORROWERS TO SECURE ADVANCES.

(a) IN GENERAL.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended by striking "or nonmember borrower" in the first sentence.

(b) CONFORMING AMENDMENTS.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

12 USC 1422, 1424.

(1) in sections 2(5) and 4(b), by striking "or a nonmember borrower" wherever it appears;

12 USC 1426.

(2) in section 6(e) (as redesignated by section 706 of this Act), by striking "or nonmember borrower" wherever it appears;

(3) in section 6(e) (as redesignated by section 706 of this Act), by striking "or deprive any nonmember borrower of the privilege of further advances,";

12 USC 1427, 1430.

(4) in sections 7(j) and 10(c), by striking "or nonmember borrower" wherever it appears;

(5) in section 10(c), by striking ", or made to a nonmember borrower" in the second sentence; and

12 USC 1431.

(6) in sections 11(g) and 11(h), by striking "or nonmember borrowers" wherever it appears.

(c) COMMUNITY SUPPORT.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end the following:

"(g) COMMUNITY SUPPORT REQUIREMENTS.—

Regulations.

"(1) IN GENERAL.—Before the end of the 2-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board shall adopt regulations establishing standards of community

investment or service for members of Banks to maintain continued access to long-term advances.

"(2) FACTORS TO BE INCLUDED.—The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 and the member's record of lending to first-time homebuyers.".

SEC. 711. ADMINISTRATIVE EXPENSES.

Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1437(b)) is amended to read as follows: 12 USC 1438.

"(b) ASSESSMENTS FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Board may impose a semiannual assessment on the Federal Home Loan Banks, the aggregate amount of which is sufficient to provide for the payment of the Board's estimated expenses for the period for which such assessment is made.

"(2) DEFICIENCIES.—If, at any time, amounts available from any assessment for any semiannual period are insufficient to cover the expenses of the Board incurred in carrying out the provisions of this Act during such period, the Board may make an immediate assessment against the Banks to cover the amount of the deficiency for such semiannual period.

"(3) SURPLUSES.—If, at the end of any semiannual period for which an assessment is made, any amount remains from such assessment, such amount will be deducted from the assessment on the Banks by the Board for the following semiannual period.

"(4) TRANSITION PROVISION.—On or after the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may levy a one-time special assessment on the Banks pursuant to this subsection for the Board's estimated expenses for the transitional period following enactment of such Act, if such assessment is made before the Board's first semiannual assessment under paragraph (1).".

SEC. 712. NONADMINISTRATIVE EXPENSES.

Subsection (a) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438(a)) and section 19A of such Act (12 U.S.C. 1439-1) are hereby repealed.

SEC. 713. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.

Subsection (i) of section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is repealed and subsections (j), (k), and (l) are redesignated subsections (i), (j), and (k), respectively.

SEC. 714. ADVANCES.

(a) IN GENERAL.—Subsection (a) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended by striking everything after "members" to the end period and inserting the following: "upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 11(g) of this Act. All long-term advances shall only be made for the purpose of providing funds for residential housing finance. A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:

"(1) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages.

"(2) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Association).

"(3) Deposits of a Federal Home Loan Bank.

"(4) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral. The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member's capital.

"(5) Paragraphs (1) through (4) shall not affect the ability of any Federal Home Loan Bank to take such steps as it deems necessary to protect its security position with respect to outstanding advances, including requiring deposits of additional collateral security, whether or not such additional security would be eligible to originate an advance. If an advance existing on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 matures and the member does not have sufficient eligible collateral to fully secure a renewal of such advance, a Bank may renew such advance secured by such collateral as the Bank and the Board determines is appropriate. A member that has an advance secured by such insufficient eligible collateral must reduce its level of outstanding advances promptly and prudently in accordance with a schedule determined by the Board.".

(b) REDUCED ELIGIBILITY FOR ADVANCES.—Section 10(e) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)) is amended to read as follows:

"(e) QUALIFIED THRIFT LENDER STATUS.—

"(1) IN GENERAL.—A member that is not a qualified thrift lender may only receive an advance if it holds stock in its Federal Home Loan Bank at the time it receives that advance in an amount equal to at least—

"(A) 5 percent of that member's total advances, divided by

"(B) such member's actual thrift investment percentage.

Such members that are not qualified thrift lenders may only apply for advances under this section for the purpose of obtaining funds for housing finance.

"(2) PRIORITY.—The Board, by regulation, shall establish a priority for advances to members that are qualified thrift lenders. The aggregate amount of any Bank's advances to members that are not qualified thrift lenders shall not exceed 30 percent of a Bank's total advances.

"(3) MINIMUM STOCK PURCHASE REQUIREMENT FOR MEMBERSHIP.—Each member of a Federal Home Loan Bank shall, at a minimum, purchase and maintain stock in its Federal Home Loan Bank in the amount that would be required under section 6(b) if at least 30 percent of such member's assets were home mortgage loans.

"(4) EXCEPTIONS.—Paragraphs (1) and (2) of this subsection do not apply to—

"(A) a savings bank as defined in section 3 of the Federal Deposit Insurance Act; or

"(B) a Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or cooperative bank prior to October 15, 1982; or

"(ii) that acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law.

"(5) DEFINITIONS.—As used in this subsection—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' has the same meaning as in section 10(a)(1)(A) of the Home Owners' Loan Act.

"(B) QUALIFIED THRIFT LENDER.—The term 'qualified thrift lender' has the same meaning as in section 10(m) of the Home Owners' Loan Act.

"(C) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' has the same meaning as in section 10(m) of the Home Owners' Loan Act.".

(c) SPECIAL LIQUIDITY ADVANCES.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) (as amended by section 710(c) of this Act) is amended by adding at the end the following new subsection:

"(h) SPECIAL LIQUIDITY ADVANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Federal Home Loan Banks may, upon the request of the Director of the Office of Thrift Supervision, make short-term liquidity advances to a savings association that—

"(A) is solvent but presents a supervisory concern because of such association's poor financial condition; and

"(B) has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

"(2) INTEREST ON AND SECURITY FOR SPECIAL LIQUIDITY ADVANCES.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be subject to all applicable collateral requirements, including the requirements of section 10(a) of this Act, and shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to savings associations that do not present such supervisory concern.".

SEC. 715. AMENDMENTS RELATING TO WITHDRAWAL FROM FEDERAL HOME LOAN BANK MEMBERSHIP.

Section 6(h) of the Federal Home Loan Bank Act (as redesignated by section 706 of this Act) is amended by striking "five" and inserting "10".

SEC. 716. REPEAL OF PROVISIONS RELATING TO LAWFUL CONTRACT RATE.

Section 5 of the Federal Home Loan Bank Act (12 U.S.C. 1425) is hereby repealed.

SEC. 717. BANK STOCK AND OBLIGATIONS.

Section 23 of the Federal Home Loan Bank Act (12 U.S.C. 1443) is amended to read as follows:

"SEC. 23. FORMS OF BANK STOCK AND OBLIGATIONS.

"Any stock, debentures, bonds, notes, or other obligations issued under the authority of this Act may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Board of Directors of the Federal Housing Finance Board may provide.".

SEC. 718. THRIFT ADVISORY COUNCIL.

Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is hereby repealed.

SEC. 719. EXAMINATION OF MEMBERS.

Section 22 of the Federal Home Loan Bank Act (12 U.S.C. 1442) is amended to read as follows:

"SEC. 22. MEMBER FINANCIAL INFORMATION.

Classified information.

"(a) IN GENERAL.—In order to enable the Federal Home Loan Banks to carry out the provisions of this Act, the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision, upon request by any Federal Home Loan Bank—

"(1) shall make available in confidence to any Federal Home Loan Bank, such reports, records, or other information as may be available, relating to the condition of any member of any Federal Home Loan Bank or any institution with respect to which any such Bank has had or contemplates having transactions under this Act; and

"(2) may perform through their examiners or other employees or agents, for the confidential use of the Federal Home Loan Bank, examinations of institutions for which such agency is the appropriate Federal banking regulatory agency.

Reports.

In addition, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision shall make available to the Board or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Board or a Bank to compile and publish cost of funds indices or other financial or statistical reports.

"(b) CONSENT BY MEMBERS.—Every member of a Federal Home Loan Bank shall, as a condition precedent thereto, be deemed—

"(1) to consent to such examinations as the Bank or the Board may require for the purposes of this Act;

"(2) to agree that reports of examinations by local, State, or Federal agencies or institutions may be furnished by such authorities to the Bank or the Board upon request; and

"(3) to agree to give the Bank or the Federal agency, upon request, such information as they may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members.".

SEC. 720. LIQUIDITY.

Section 5A of the Federal Home Loan Bank Act (12 U.S.C. 1425a) is hereby repealed.

SEC. 721. AFFORDABLE HOUSING.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) (as amended by section 710 and section 714 of this Act) is amended by adding at the end the following:

"(i) COMMUNITY INVESTMENT PROGRAM.—

"(1) IN GENERAL.—Each Bank shall establish a program to provide funding for members to undertake community-oriented mortgage lending. Each Bank shall designate a community investment officer to implement community lending and affordable housing advance programs of the Banks under this subsection and subsection (j) and provide technical assistance and outreach to promote such programs. Advances under this program shall be priced at the cost of consolidated Federal Home Loan Bank obligations of comparable maturities, taking into account reasonable administrative costs.

"(2) COMMUNITY-ORIENTED MORTGAGE LENDING.—For purposes of this subsection, the term 'community-oriented mortgage lending' means providing loans—

"(A) to finance home purchases by families whose income does not exceed 115 percent of the median income for the area,

"(B) to finance purchase or rehabilitation of housing for occupancy by families whose income does not exceed 115 percent of median income for the area,

"(C) to finance commercial and economic development activities that benefit low- and moderate-income families or activities that are located in low- and moderate-income neighborhoods, and

"(D) to finance projects that further a combination of the purposes described in subparagraphs (A) through (C).

"(j) AFFORDABLE HOUSING PROGRAM.—

"(1) IN GENERAL.—Pursuant to regulations promulgated by the Board, each Bank shall establish an Affordable Housing Program to subsidize the interest rate on advances to members engaged in lending for long term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. Disadvantaged persons.

"(2) STANDARDS.—The Board's regulations shall permit Bank members to use subsidized advances received from the Banks to—

"(A) finance homeownership by families with incomes at or below 80 percent of the median income for the area; or

"(B) finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term.

"(3) PRIORITIES FOR MAKING ADVANCES.—In using advances authorized under paragraph (1), each Bank member shall give priority to qualified projects such as the following:

"(A) purchase of homes by families whose income is 80 percent or less of the median income for the area,

"(B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and

"(C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

"(4) REPORT.—Each member receiving advances under this program shall report annually to the Bank making such advances concerning the member's use of advances received under this program.

"(5) CONTRIBUTION TO PROGRAM.—Each Bank shall annually contribute the percentage of its annual net earnings prescribed in the following subparagraphs to support subsidized advances through the Affordable Housing Program:

"(A) In 1990, 1991, 1992, and 1993, 5 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of all the Banks shall not be less than $50,000,000 for each such year.

"(B) In 1994, 6 percent of the preceding year's net income, or such prorated sum as may be required to assure that the aggregate contribution of the Banks shall not be less than $75,000,000 for such year.

"(C) In 1995, and subsequent years, 10 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of the Banks shall not be less than $100,000,000 for each such year.

"(6) GROUNDS FOR SUSPENDING CONTRIBUTIONS.—

"(A) IN GENERAL.—If a Bank finds that the payments required under this paragraph are contributing to the financial instability of such Bank, it may apply to the Federal Housing Finance Board for a temporary suspension of such payments.

"(B) FINANCIAL INSTABILITY.—In determining the financial instability of a Bank, the Federal Housing Finance Board shall consider such factors as (i) whether the Bank's earnings are severely depressed, (ii) whether there has been a substantial decline in membership capital, and (iii) whether there has been a substantial reduction in advances outstanding.

"(C) REVIEW.—The Board shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's decision shall be accompanied by specific findings and reasons for its action.

"(D) MONITORING SUSPENSION.—If the Board grants a suspension, it shall specify the period of time such suspension shall remain in effect and shall continue to monitor the Bank's financial condition during such suspension.

"(E) LIMITATIONS ON GROUNDS FOR SUSPENSION.—The Board shall not suspend payments to the Affordable Housing Program if the Bank's reduction in earnings is a result of (i) a change in the terms for advances to members which is not justified by market conditions, (ii) inordinate operating and administrative expenses, or (iii) mismanagement.

"(F) The Federal Housing Finance Board shall notify the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 60 days before such suspension takes effect. Such suspension shall become effective unless a joint resolution is enacted disapproving such suspension.

"(7) FAILURE TO USE AMOUNTS FOR AFFORDABLE HOUSING.—If any Bank fails to utilize or commit the full amount provided in this subsection in any year, 90 percent of the amount that has not been utilized or committed in that year shall be deposited by the Bank in an Affordable Housing Reserve Fund administered by the Board. The 10 percent of the unutilized and uncommitted amount retained by a Bank should be fully utilized or committed by that Bank during the following year and any remaining portion must be deposited in the Affordable Housing Reserve Fund. Under regulations established by the Board, funds from the Affordable Housing Reserve Fund may be made available to any Bank to meet additional affordable housing needs in such Bank's district pursuant to this section.

"(8) NET EARNINGS.—The net earnings of any Federal Home Loan Bank shall be determined for purposes of this paragraph—

"(A) after reduction for any payment required under section 21 or 21B of this Act; and

"(B) before declaring any dividend under section 16.

"(9) REGULATIONS.—The Federal Housing Finance Board shall promulgate regulations to implement this subsection. Such regulations shall, at a minimum—

"(A) specify activities eligible to receive subsidized advances from the Banks under this program;

"(B) specify priorities for the use of such advances;

"(C) ensure that advances made under this program will be used only to assist projects for which adequate long-term monitoring is available to guarantee that affordability standards and other requirements of this subsection are satisfied;

"(D) ensure that a preponderance of assistance provided under this subsection is ultimately received by low- and moderate-income households;

"(E) ensure that subsidies provided by Banks to member institutions under this program are passed on to the ultimate borrower;

"(F) establish uniform standards for subsidized advances under this program and subsidized lending by member institutions supported by such advances, including maximum subsidy and risk limitations for different categories of loans made under this subsection; and

"(G) coordinate activities under this subsection with other Federal or federally-subsidized affordable housing activities to the maximum extent possible.

"(10) OTHER PROGRAMS.—No provision of this subsection or subsection (i) shall preclude any Bank from establishing additional community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

"(11) ADVISORY COUNCIL.—Each Bank shall appoint an Advisory Council of 7 to 15 persons drawn from community and

nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the Bank quarterly to advise the Bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Board at least annually its analysis of the low-income housing activity of the Bank by which it is appointed.

"(12) REPORTS TO CONGRESS.—

"(A) The Board shall monitor and report annually to the Congress and the Advisory Council for each Bank the support of low-income housing and community development by the Banks and the utilization of advances for these purposes.

"(B) The analyses submitted by the Advisory Councils to the Board under paragraph (11) shall be included as part of the report required by this paragraph.

"(C) The Comptroller General of the United States shall audit and evaluate the Affordable Housing Program established by this subsection after such program has been operating for 2 years. The Comptroller General shall report to Congress on the conclusions of the audit and recommend improvements or modifications to the program.

"(13) DEFINITIONS.—For purposes of this subsection—

"(A) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term 'low- or moderate-income household' means any household which has an income of 80 percent or less of the area median.

"(B) VERY LOW-INCOME HOUSEHOLD.—The term 'very low-income household' means any household that has an income of 50 percent or less of the area median.

"(C) LOW- OR MODERATE-INCOME NEIGHBORHOOD.—The term 'low- or moderate-income neighborhood' means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

"(D) AFFORDABLE FOR VERY-LOW INCOME HOUSEHOLDS.—For purposes of paragraph (2)(B) the term 'affordable for very-low income households' means that rents charged to tenants for units made available for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.".

12 USC 1437 note.

SEC. 722. TRANSFERRED EMPLOYEES OF FEDERAL HOME LOAN BANKS AND JOINT OFFICES.

(a) IN GENERAL.—Each employee of the Federal Home Loan Banks or joint offices of such Banks performing a function identified for transfer under section 403 of this Act, including employees who otherwise would be ineligible for employment by the United States because of their citizenship, shall be transferred for employment not later than 60 days after the date of the enactment of this Act.

(b) NOTICE TO EMPLOYEES.—Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(c) GUARANTEED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held by such employee on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated for one year after the date of transfer, except for cause.

(d) PAY AND BENEFITS.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, pay and benefits comparable to those received by such employee immediately preceding the transfer. Where necessary or appropriate to further the safety and soundness of the thrift industry, the employing agency may continue the pre-transfer compensation of any transferring employee for up to 2 years beyond the expiration of the period provided for under the preceding sentence. Such pay and benefits shall be subject to the comparability provisions of this Act. Any transferred employee who suffers a reduction of pay or benefits as a result of such comparability provisions shall be compensated for such reduction during the 1 year period following the transfer by assessments from the Federal Home Loan Bank or joint office of such Banks, from which the employee transferred. In any event, this subsection shall only apply to a transferred employee while such employee remains with the agency to which the employee is transferred.

(e) HEALTH INSURANCE.—If the health insurance program of a transferred employee is not continued by the agency to which the employee is transferred, such employee may elect to participate in the agency's health insurance program notwithstanding health conditions pre-existing at the time of election or enrollment into an alternate health insurance program of the agency to which he or she is transferred and without regard to any other regularly scheduled open season. Such election shall be made within 30 days of the transfer.

(f) EQUITABLE TREATMENT.—The Director of the Office of Thrift Supervision or the Chairperson of the Federal Housing Finance Board shall take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for prior service with a Federal entity or instrumentality, or with a Federal Home Loan Bank or joint office of such Banks, with respect to the transferring employees' retirement accounts and the transferring employees' accrued leave or vacation time, in recognition of the transferring employees' supervisory service.

(g) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual who was a reemployed annuitant on July 26, 1989, and who is transferred under this section, shall not be subject to the deduction from pay required by section 8344 or 8468 of title 5, United States Code, during the 1-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 723. TRANSITIONAL PROVISIONS.

12 USC 1437 note.

(a) FEDERAL HOME LOAN BANKS' SHARE OF ADMINISTRATIVE EXPENSES.—The Federal Home Loan Banks shall pay to the Director of the Office of Thrift Supervision the amount obtained by multiplying the administrative expenses of the Office of Thrift Supervision incurred in connection with functions of the Banks that are trans-

ferred to the Office (less any fees or assessments collected by the Office) by a fraction—

(1) the numerator of which is the amount of such expenses of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation paid by the Banks during the 1-year period ending on the date of enactment of this Act; and

(2) the denominator of which is the total expenses of such Board and Corporation during such period.

No payment under this subsection is required after December 31, 1989.

(b) COMPENSATION OF SUPERVISORY AND EXAMINATIONS EMPLOYEES.—The Federal Home Loan Banks shall continue to pay the compensation of employees of the Federal Home Loan Banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing supervisory and examination functions until such supervisory and examination functions are transferred under this Act. Thereafter, the obligation of the Federal Home Loan Banks hereunder to pay such applicable compensation shall continue until the later of—

(1) the date which is 120 days after the date of transfer of such supervisory and examination functions to the Office of Thrift Supervision, or

(2) March 31, 1990.

Payment of such compensation by the Federal Home Loan Banks shall be in lieu of, and not in addition to, the payment of compensation by the Office of Thrift Supervision.

(c) FACILITIES AND SUPPORT SERVICES.—Until December 31, 1990, the Federal Home Loan Banks, as necessary, shall (with respect to supervisory and examination functions performed by employees transferred from the Federal Home Loan Banks or joint offices of such Banks to the Office of Thrift Supervision), provide the Office of Thrift Supervision facilities and support services comparable to those presently provided for the employees of the Federal Home Loan Banks or joint offices of such Banks performing such supervisory and examination functions, including office space, furniture and equipment, computer, personnel, and other support services. With respect to supervisory and examination functions presently performed by employees of individual Federal Home Loan Banks, each such Bank will only be required to provide such facilities and support services to the extent that the functions continue to be performed in that Bank's offices.

(d) PRINCIPAL SUPERVISORY AGENT.—Beginning on the date of enactment of this Act until the Director of the Office of Thrift Supervision shall otherwise provide, the Principal Supervisory Agent for each Federal Home Loan Bank district shall be the senior supervisory official (other than the President of the Federal Home Loan Bank) employed by the Federal Home Loan Bank in such district on the day before the date of the enactment of this Act, and such employees performing supervisory and examination functions shall continue to be responsible for the supervision and examination of savings associations within such district.

SEC. 724. FEDERAL HOME LOAN BANK RESERVES.

(a) IN GENERAL.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) by striking the first three sentences and inserting in lieu thereof: "Each Federal Home Loan Bank may carry to a reserve

account from time-to-time such portion of its net earnings as may be determined by its board of directors."; and

(2) by striking the fifth sentence and inserting the following: "No dividends shall be paid except out of net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this Act have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 21 or payments relating to the Funding Corporation Principal Fund under section 21B(e), and then only with the approval of the Federal Housing Finance Board. Beginning on January 1, 1992, the preceding sentence shall be applied by substituting 'previously retained earnings or current net earnings' for 'net earnings'.".

Effective date.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on January 1, 1992.

12 USC 1436 note.

SEC. 725. SPECIAL ACCOUNT.

12 USC 1437 note.

At the time of dissolution of the Federal Home Loan Bank Board, all such moneys and funds as shall remain in the special deposit account of the Federal Home Loan Bank Board, or other such accounts, shall become the property of the Federal Housing Finance Board.

Subtitle B—Federal Home Loan Mortgage Corporation

SEC. 731. FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) STATEMENT OF PURPOSE.—

(1) IN GENERAL.—Section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(A) by inserting "(a)" after the section designation; and

(B) by adding at the end the following new subsection:

"(b) It is the purpose of the Federal Home Loan Mortgage Corporation—

"(1) to provide stability in the secondary market for home mortgages;

"(2) to respond appropriately to the private capital market; and

"(3) to provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return to the Corporation) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing.".

(2) CONFORMING AMENDMENT.—The section heading for section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended to read as follows:

"SHORT TITLE AND STATEMENT OF PURPOSE".

(b) BOARD OF DIRECTORS.—

(1) NEW BOARD.—Section 303(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)) is amended to read as follows:

"(a)(1) There is hereby created the Federal Home Loan Mortgage Corporation, which shall be a body corporate under the direction of a Board of Directors. Within the limitations of law and regulation, the Board of Directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

District of Columbia.

"(2)(A) The Board of Directors of the Corporation shall consist of 18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom shall be elected annually by the voting common stockholders. The Board of Directors shall at all times have as members appointed by the President of the United States at least 1 person from the homebuilding industry, at least 1 person from the mortgage lending industry, and at least 1 person from the real estate industry.

President of U.S.

"(B) Each member of the Board of Directors shall be such or elected for a term ending on the date of the next annual meeting of the voting common stockholders.

"(C) Any appointive seat on the Board of Directors that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term. Any elective seat on the Board of Directors that becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the unexpired portion of the term.

"(D) Any member of the Board of Directors who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for services as such a member.".

12 USC 1452 note.

(2) TRANSITIONAL PROVISIONS.—

(A) INTERIM BOARD.—

(i) ESTABLISHMENT.—There shall be an interim Board of Directors of the Federal Home Loan Mortgage Corporation, which shall serve from the date of the enactment of this Act until the date of the 1st meeting of the voting common shareholders of the Corporation at which the first election of the directors elected by the shareholders occurs.

(ii) MEMBERS.—The interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of—

(I) the President of the Corporation; and

(II) the persons who were (on the day before the date of the enactment of this Act) the Chairman of the Federal Home Loan Bank Board and the Secretary of Housing and Urban Development (or their designees).

(iii) QUORUM.—A quorum of the interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of a majority of the directors duly serving from time to time.

(B) ELECTION OF PERMANENT DIRECTORS.—The first meeting of the voting common shareholders of the Federal Home Loan Mortgage Corporation for election of directors shall occur, under procedures established by the Corporation, within 6 months after the date of the enactment of this Act.

(c) REGULATORY POWER.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary of Housing and Urban Development shall have general regulatory power over the Corporation and shall make such rules and regulations as shall be necessary and proper to ensure that the purposes of this title are accomplished.

"(2) The Secretary of Housing and Urban Development may require that a reasonable portion of the mortgage purchases of the Corporation be related to the national goal of providing adequate housing for low- and moderate-income families, but with reasonable economic return to the Corporation. Disadvantaged persons.

"(3) The aggregate amount of cash dividends paid by the Corporation in any fiscal year on account of any share of its common stock shall not exceed any rate that may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the Corporation.

"(4) The Secretary of Housing and Urban Development may examine and audit the books and financial transactions of the Corporation and may require the Corporation to issue any reports on its activities that the Secretary determines to be advisable. The Secretary shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this Act. Reports.

"(5) The aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time shall not exceed the amount which is 15 times the sum of the Corporation's capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development. The outstanding total principal amount of any obligations of the Corporation which are entirely subordinated to the general debt obligations of the Corporation shall be deemed to be capital of the Corporation for the purpose of determining the aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time.

"(6) All issuances of stock, and debt obligations convertible into stock, by the Corporation shall be made only with the approval of the Secretary of Housing and Urban Development.

"(7)(A) The exercise of the authority of the Corporation pursuant to commitments or otherwise to purchase, service, sell, lend on the security of, or otherwise deal in conventional residential mortgages under section 305(a) shall be subject to the approval of the Secretary of Housing and Urban Development.

"(B) Any conventional mortgage programs or activities with respect to purchasing, servicing, selling, lending on the security of, or otherwise dealing in mortgages in which the Corporation has engaged or is engaging as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of Housing and Urban Development as required by this paragraph.

"(8) If the Corporation submits to the Secretary of Housing and Urban Development a request for approval or other action under Reports.

this title, the Secretary shall, not later than the expiration of the 45-day period following the submission of the request, approve the request or transmit to the Congress a report explaining why the request has not been approved. The period may be extended for an additional 15-day period if the Secretary requests additional information from the Corporation, but the 45-day period may not be extended for any other reason or for any period in addition to or other than the 15-day period. If the Secretary fails to transmit the report to the Congress within the 45-day period or 60-day period, as the case may be, the Corporation may proceed as if the request had been approved.".

(d) COMMON STOCK.—

(1) IN GENERAL.—Section 304(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(a)) is amended to read as follows:

"(a)(1) The common stock of the Corporation shall consist of—

"(A) nonvoting common stock, which shall be issued only to Federal home loan banks; and

"(B) voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

"(2) The nonvoting common stock and the voting common stock shall have such par value and other characteristics as the Corporation provides. The voting common stock shall be vested with all voting rights, each share being entitled to 1 vote. The free transferability of the voting common stock at all times to any person, firm, corporation or other entity shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation. Nonvoting common stock of the Corporation shall be evidenced in the manner and shall be transferable only to the extent, to the transferees, and in the manner, provided by the Corporation.".

12 USC 1453 note.

(2) CONVERSION OF STOCK.—On the date of the enactment of this Act, each share of outstanding senior participating preferred stock of the Federal Home Loan Mortgage Corporation, with a par value of $2.50 per share, shall be changed into and shall become 1 share of voting common stock of the Corporation. Such voting common stock shall, with respect to the nonvoting common stock of the Corporation, retain all of the rights, priorities and privileges of the senior participating preferred stock. The transformation of the senior participating preferred stock into voting common stock under this paragraph shall be deemed to satisfy the obligation of the Corporation to redeem senior participating preferred stock for non-callable common stock.

(3) CONFORMING AMENDMENTS.—

(A) SUBSCRIPTIONS OF FEDERAL HOME LOAN BANKS.—Section 304(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(b)) is amended by inserting "nonvoting" before "common".

(B) ALLOCATION OF SUBSCRIPTIONS.—Section 304(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(c)) is amended by striking "such" and by inserting "nonvoting common" before "stock".

(C) RETIREMENT OF STOCK.—Section 304(d) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(d)) is

amended by inserting "nonvoting common" before "stock" each place it appears.

(e) MORTGAGE OPERATIONS.—

(1) PROHIBITION ON FEES.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended by adding at the end the following: "Nothing in this section authorizes the Corporation to impose any charge or fee upon any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act solely because of such status.".

(2) LENDING ACTIVITIES.—Section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) is amended by adding at the end the following new paragraph:

"(5) The Corporation is authorized to lend on the security of, and to make commitments to lend on the security of, any mortgage that the Corporation is authorized to purchase under this section. The volume of the Corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees in its secondary market operations under this paragraph, shall be determined by the Corporation from time to time; and such determinations shall be consistent with the objectives that the lending activities shall be conducted on such terms as will reasonably prevent excessive use of the Corporation's facilities, and that the operations of the Corporation under this paragraph shall be within its income derived from such operations and that such operations shall be fully self-supporting. The Corporation shall not be permitted to use its lending authority under this paragraph (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans. Notwithstanding any Federal, State, or other law to the contrary, the Corporation is hereby empowered, in connection with any loan under this paragraph, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the Corporation.".

(f) REFERENCES TO FSLIC AND FHLBB.—

(1) SECTION 302.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(A) in the 4th sentence, by striking out "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Resolution Trust Corporation"; and

(B) in the 8th sentence, by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Federal Housing Finance Board".

(2) SECTION 305.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended—

(A) by striking out "Federal Savings and Loan Insurance Corporation" each place it appears and inserting in lieu thereof "Resolution Trust Corporation"; and

(B) in subsection (a)(2), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Federal Housing Finance Board".

(g) STANDBY CREDIT.—Section 306(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(c)) is amended to read as follows:

"(c)(1) The Secretary of the Treasury may purchase any obligations issued under subsection (a). For such purpose, the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purpose.

"(2) The Secretary of Treasury shall not at any time purchase any obligations under this subsection if the purchase would increase the aggregate principal amount of the outstanding holdings of obligations under this subsection by the Secretary to an amount greater than $2,250,000,000.

"(3) Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions established to yield a rate of return determined by the Secretary to be appropriate, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the purchase.

"(4) The Secretary of the Treasury may at any time sell, upon terms and conditions and at prices determined by the Secretary, any of the obligations acquired by the Secretary under this subsection.

"(5) All redemptions, purchases and sales by the Secretary of the Treasury of obligations under this subsection shall be treated as public debt transactions of the United States.".

(h) PREFERRED STOCK.—Section 306(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(f)) is amended to read as follows:

"(f) The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not be entitled to vote with respect to the election of any member of the Board of Directors.".

(i) TERMS OF OBLIGATIONS.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by adding at the end the following new subsections:

"(j)(1) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation evidencing money borrowed, whether general or subordinated, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any notes, debentures, of substantially identical types of unsecured obligations of the Corporation having maturities of 1 year or less that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 365 days after such date of enactment.

"(3) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation having maturities of more than 1 year that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recov-

ery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 60 days after such date of enactment.

"(k)(1) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection.".

(j) STATE LIMITATIONS.—

(1) The second sentence of section 307(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(a)) is amended to read as follows: "The Corporation is authorized to conduct its business without regard to any qualification or similar statute in any State.".

(2) The amendment made by this subsection shall not apply to any assertion of priority by the Federal Home Loan Mortgage Corporation with respect to any cause of action or claim filed before the date of the enactment of this Act. 12 USC 1456 note.

(k) PENAL PROVISIONS.—Section 308 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1457) is amended—

(1) in subsection (a), by striking the subsection designation; and

(2) by striking subsections (b), (c), (d), (e), and (f).

(l) CONSTRUCTION.—Section 310 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1459) is amended—

(1) in the section heading, by striking "CONSTRUCTION AND"; and

(2) by striking the first sentence.

(m) CONFORMING AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—

(1) STATEMENT OF PURPOSE.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(A) by striking paragraphs (a) and (b) and inserting the following new paragraphs:

"(1) provide stability in the secondary market for home mortgages;

"(2) respond appropriately to the private capital market;

"(3) provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing; and"; and

(B) by redesignating paragraph (c) as paragraph (4).

(2) LENDING ACTIVITIES.—Section 304(a)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(a)(2)) is amended—

(A) by inserting after the 3rd sentence the following new sentence: "The corporation shall not be permitted to use its lending authority (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans."; and

(B) by striking the 1st and 2d sentences.

(3) AUDITS BY GAO.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(j) The mortgage transactions of the corporation may be subject to audit by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporation transactions under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to such books, accounts, financial records, reports, files, and such other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.".

Reports.

Subtitle C—Technical and Conforming Amendments

SEC. 741. REPEAL OF LIMITATION OF OBLIGATION FOR ADMINISTRATIVE EXPENSES.

Section 7(b) of the First Deficiency Appropriation Act of 1936 (15 U.S.C. 712a(b)) is amended by striking the following:

"1. Federal Home Loan Bank Board;";

"2. Home Owners' Loan Corporation;"; and

"11. Federal Savings and Loan Insurance Corporation;".

SEC. 742. AMENDMENT OF TITLE 5, UNITED STATES CODE.

(a) EXECUTIVE SCHEDULE.—

(1) Section 5314 of title 5, United States Code (5 U.S.C. 5315) is amended—

(A) by striking

"Chairman of the Federal Home Loan Bank Board."; and

(B) by adding at the end thereof the following:

"Director of the Office of Thrift Supervision.

"Chairperson of the Federal Housing Finance Board.".

(2) Section 5315 of title 5, United States Code (5 U.S.C. 5315) is amended—

(A) by striking out

"Members, Federal Home Loan Bank Board.", and

(B) by inserting

"Directors, Federal Housing Finance Board.".

(b) LIMITATION ON PAY FIXED BY ADMINISTRATIVE ACTION.—Section 5373(2) of title 5, United States Code, is amended by inserting after "481," the following: "1437, 1439,".

(c) DEFINITION OF AGENCY.—Section 3132(a)(1) of title 5, United States Code (5 U.S.C. 3132(a)(1)), is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(D) the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, and the National Credit Union Administration;".

SEC. 743. AMENDMENT OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT PROVISIONS.

(a) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by inserting after the item relating to the Comptroller of the Currency the following new item:

"Director of the Office of Thrift Supervision;";

(2) by striking out "Federal Home Loan Bank Board;" and inserting in lieu thereof the following new items:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;";

(3) by striking out "Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Federal Housing Finance Board"; and

(4) by inserting after the item relating to the Postal service fund the following new items:

"Resolution Funding Corporation;

"Resolution Trust Corporation;".

(b) Section 256(b)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 256(b)(4)) is amended— 2 USC 906.

(1) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph

"(C) Office of Thrift Supervision.";

(2) by striking subparagraph (D) and inserting in lieu thereof the following new subparagraph:

"(D) Office of Thrift Supervision."; and

(3) by adding at the end thereof the following new subparagraphs:

"(H) Resolution Funding Corporation.

"(I) Resolution Trust Corporation.".

(c) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371);".

SEC. 744. CONFORMING AMENDMENTS TO FINANCIAL INSTITUTION RELATED ACTS.

(a) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT.—

(1) SECTION 1003.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(A) in paragraph (1), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Office of Thrift Supervision"; and

(B) in paragraph (3), by striking out "savings and loan association" and inserting in lieu thereof "savings association".

(2) SECTION 1004.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)) is amended by striking out "Chairman of the Federal Home Loan Bank Board, and" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(3) SECTION 1006.—Section 1006(d) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(d)) is amended in the 2d sentence by inserting "and employees of the Federal Housing Finance Board" after "supervisory agencies".

(b) RIGHT TO FINANCIAL PRIVACY ACT.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) in paragraph (1), by striking out "savings and loan" and inserting in lieu thereof "savings association";

(2) in paragraph (6), by striking out subparagraph (B) and redesignating the remaining subparagraphs as subparagraphs (B) through (H), respectively; and

(3) in paragraph (6)(B) (as so redesignated), by striking out "the Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(c) ALTERNATIVE MORTGAGE TRANSACTIONS PARITY ACT.—The Alternative Mortgage Transactions Parity Act of 1982 (12 U.S.C. 3801-06) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(d) EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a)(2) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation; and".

(e) PAPERWORK REDUCTION ACT.—Section 2(a)(10) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502(a)(10)) is amended by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "the Federal Housing Finance Board".

(f) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 602(11) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(11)) is amended—

(1) by inserting "or the Resolution Trust Corporation" after "Department of Housing and Urban Development";

(2) by striking out "savings and loan accounts" and inserting in lieu thereof "savings association accounts"; and

(3) by inserting "under the Federal Deposit Insurance Act or any other law." after "National Housing Act".

(g) PUBLIC BUILDINGS ACT.—Section 13(4) of the Public Buildings Act of 1959 (40 U.S.C. 612(d)) is amended by striking out subparagraph (D).

(h) BANK PROTECTION ACT.—Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended—

(1) in paragraph (4), by—

(A) striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Director of the Office of Thrift Supervision";

(B) striking out "and loan"; and

(C) striking "associations" and all that follows through "Corporation"; and

(2) in paragraph (3), by inserting "and State savings associations" before ", and".

(i) THE FEDERAL RESERVE ACT.—

(1) SECTION 11.—Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) is amended by striking "(iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation" and inserting "(iii) the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)".

(2) SECTION 19(b).—Section 19(b)(1)(A)(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(vi)) is amended to read as follows:

"(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and".

(3) SECTION 19.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended by striking out "the Federal Home Loan Bank Board," and inserting in lieu thereof "the Director of the Office of Thrift Supervision," each place it appears.

(j) PUBLIC LAW 93-495.—Section 3 of title I of Public Law 93-495 (12 U.S.C. 250) is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

(k) TRUTH IN LENDING ACT.—Section 108(a)(2) of the Truth in Lending Act (15 U.S.C. 1607(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(l) FAIR CREDIT REPORTING ACT.—Section 621(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(m) EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a)(2) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(2)) is amended to read as follows:

"(2) Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(n) FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b)(2) of the Fair Debt Collection Practices Act (15 U.S.C. 1692*l*(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(o) ELECTRONIC FUND TRANSFER ACT.—Section 917(a)(2) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(p) HOME MORTGAGE DISCLOSURE ACT OF 1975.—

(1) SECTION 305.—Section 305(b)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation; and".

(2) SECTION 306.—Section 306(b)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(3) SECTION 307.—Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is amended by striking "Federal Home Loan Bank Board" each place it appears and inserting "Director of the Office of Thrift Supervision".

(q) COMMUNITY REINVESTMENT ACT OF 1977.—Section 803(1)(D) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(1)(D)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and a savings and loan holding company;".

(r) DEPOSITORY INSTITUTIONS MANAGEMENT INTERLOCKS ACT.—

(1) Section 207(4) of the Depository Institutions Management Interlocks Act (12 U.S.C. 3206(4)) is amended to read as follows:

"(4) the Director of the Office of Thrift Supervision with respect to a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and savings and loan holding companies,".

(s) DEPOSITORY INSTITUTIONS DEREGULATION ACT OF 1980.—Section 208(a)(2) of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3507(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(t) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)) is amended to read as follows:

"(3) Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act with respect to savings associations as defined in section 3 of the Federal Deposit Insurance Act.".

(u) SECURITIES EXCHANGE ACT OF 1934.—

(1) SECTION 3.—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (G)—

(i) by striking clauses (iv) and (v) and inserting the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;"; and

(ii) by redesignating clause (vi) as clause (v); and

(B) in the second sentence, by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision".

(2) SECTION 12.—Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(i)) is amended—

(A) in the first sentence—

(i) by inserting "and savings associations" after "banks" the first place it appears;

(ii) by striking "or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation"; and

(iii) by striking paragraph (4) and inserting "(4) with respect to savings associations the accounts of which are insured by the Federal Deposit Insurance Corporation are vested in the Office of Thrift Supervision"; and

(B) in the second sentence, by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision".

(3) SECTION 15.—Section 15C(f)(1) (15 U.S.C. 78o-5(f)(1)) of such Act is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

SEC. 801. DEFINITIONS.

Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by inserting after "national banking association" the following: "or any other financial institution chartered or licensed under Federal law and subject to the supervision of the Comptroller of the Currency"; and

(2) by inserting before "and the term 'State' " the following: "the term 'voluntary dissolution and liquidation' means a transaction pursuant to section 5220 of the Revised Statutes that involves the assumption of the bank's insured deposit liabilities

and the sale of the bank, or of control of the bank, as a going concern;".

SEC. 802. APPOINTMENT OF CONSERVATOR.

Section 203 of the Bank Conservation Act (12 U.S.C. 203) is amended to read as follows:

"SEC. 203. APPOINTMENT OF CONSERVATOR.

"(a) APPOINTMENT.—The Comptroller of the Currency may, without notice or prior hearing, appoint a conservator, which may be the Federal Deposit Insurance Corporation, to take possession and control of a bank whenever the Comptroller determines that one or more of the following circumstances exist:

"(1) any one or more of the conditions for appointment of a receiver for the bank specified in the first section of the Act of June 30, 1876 (12 U.S.C. 191) are present;

"(2) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(3) the bank is in an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(4)(A) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

"(B) there is no reasonable prospect for the bank's capital to be replenished without Federal assistance;

"(5) there is a violation or violations of laws, rules, or regulations, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the bank's condition or otherwise seriously prejudice the interests of its depositors;

"(6) there is concealment of books, papers, records, or assets of the bank, or refusal to submit books, papers, records, or affairs of the bank for inspection to any examiner or to any lawful agent of the Comptroller;

"(7) there is a willful or continuing violation of an order enforceable against the bank under section 8(i) of the Federal Deposit Insurance Act; or

"(8) the bank's board of directors consists of fewer than 5 members.

"(b) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Not later than 20 days after the initial appointment of a conservator pursuant to this section, the bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to terminate the appointment of the conservator, and the court, upon the merits, shall dismiss such action or shall direct the Comptroller to terminate the appointment of such conservator. The Comptroller's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(2) STAY.—The conservator may request that any judicial action or proceeding to which the conservator or the bank is or may become a party be stayed for a period of up to 45 days after

the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

"(3) ACTIONS AND ORDERS.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator. A court, upon application by the Comptroller, shall have jurisdiction to enforce an order of the Comptroller relating to—

"(A) the conservatorship and the bank in conservatorship, or

"(B) restraining or affecting the exercise of powers or functions of a conservator.

"(c) ADDITIONAL GROUNDS FOR APPOINTMENT.—In addition to the foregoing provisions, the Comptroller may appoint a conservator for a bank if—

"(1) the bank, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment, or

"(2) the Federal Deposit Insurance Corporation terminates the bank's status as an insured bank.

The appointment of a conservator pursuant to this subsection shall not be subject to review.

"(d) EXCLUSIVE AUTHORITY.—The Comptroller shall have exclusive power and jurisdiction to appoint a conservator for a bank. Whenever the Comptroller appoints a conservator for any bank, the Comptroller may appoint the Federal Deposit Insurance Corporation conservator for such bank. The Federal Deposit Insurance Corporation, as such conservator, shall have all the powers granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators of banks under this Act and any other provision of law. The Comptroller may also appoint another person as conservator, who shall be subject to the provisions of this Act.

"(e) REPLACEMENT OF CONSERVATOR.—The Comptroller may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the bank's right under subsection (b) to obtain judicial review of the Comptroller's original decision to appoint a conservator.".

SEC. 803. EXAMINATIONS.

Section 204 of the Bank Conservation Act (12 U.S.C. 204) is amended to read as follows:

"SEC. 204. EXAMINATIONS.

"The Comptroller of the Currency (in consultation with the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation is appointed conservator) is authorized to examine and supervise the bank in conservatorship as long as the bank continues to operate as a going concern. The Comptroller may use reports and other information provided by the Federal Deposit Insurance Corporation for this purpose.".

SEC. 804. TERMINATION OF CONSERVATORSHIP.

Section 205 of the Bank Conservation Act (12 U.S.C. 205) is amended to read as follows:

"SEC. 205. TERMINATION OF CONSERVATORSHIP.

"(a) GENERAL RULE.—At any time the Comptroller becomes satisfied that it may safely be done and that it would be in the public interest, the Comptroller (with the agreement of the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation has been appointed conservator) may—

"(1) terminate the conservatorship and permit the involved bank to resume the transaction of its business subject to such terms, conditions, and limitations as the Comptroller may prescribe; or

"(2) terminate the conservatorship upon a sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation of the involved bank.

"(b) OTHER GROUNDS FOR TERMINATION.—The Comptroller also may terminate the conservatorship upon the appointment of a receiver pursuant to the first section of the Act of June 30, 1876 (12 U.S.C. 191).

Courts, U.S.

"(c) ENFORCEMENT UNDER FEDERAL DEPOSIT INSURANCE ACT.—Such terms, conditions, and limitations as may be prescribed under subsection (a)(1) shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act, to the same extent as an order issued pursuant to section 8(b) of the Federal Deposit Insurance Act which has become final. The bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located or in the United States District Court for the District of Columbia for an order requiring the Comptroller to terminate the order. An action for judicial review of the terms, conditions, and limitations may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

Courts, U.S.

"(d) ACTION UPON TERMINATION.—

"(1) IN GENERAL.—Upon termination of the conservatorship under subsection (a)(2), the Federal Deposit Insurance Corporation, as conservator, or when another person is appointed conservator, such other person, shall conclude the affairs of the conservatorship in accordance with paragraph (2).

"(2) DEPOSIT AND DISTRIBUTION OF PROCEEDS.—(A) Within 180 days of the sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation, the conservator shall deposit all net proceeds received from the transaction, less any outstanding expenses of the conservatorship, with the United States district court for the judicial district in which the home office of such bank is located and shall cause notice to be published for three consecutive months and notify by mail all known and remaining creditors and shareholders. Within 60 days thereafter, any depositor, creditor, or other claimant of the bank, or any shareholder of the bank may bring an action in interpleader in that court for distribution of the proceeds. The district court shall distribute such funds equitably. If no such action is instituted within one year after the date the funds are deposited with the district court, title to such net proceeds shall revert to the United States and the district court shall remit the funds to the Treasury of the United States.

"(B) The conservator shall be deemed to have discharged all responsibility of the conservatorship upon the deposit of the proceeds with the district court and giving the required notifications.".

SEC. 805. CONSERVATOR; POWERS AND DUTIES.

Section 206 of the Bank Conservation Act (12 U.S.C. 206) is amended to read as follows:

"SEC. 206. CONSERVATOR; POWERS AND DUTIES.

"(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the bank and may operate the bank in its own name unless the Comptroller in the order of appointment limits the conservator's authority.

"(b) SUBJECT TO RULES OF COMPTROLLER.—The conservator shall be subject to such rules, regulations, and orders as the Comptroller from time to time deems appropriate; and, except as otherwise specifically provided in such rules, regulations, or orders or in section 209 of this Act, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of a national bank.

"(c) PAYMENT OF DEPOSITORS AND CREDITORS.—The Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the Comptroller may safely be used for that purpose. All depositors and creditors who are similarly situated shall be treated in the same manner.

"(d) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—The conservator and professional employees appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Comptroller of the Currency may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Comptroller determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

"(e) EXPENSES.—All expenses of any such conservatorship shall be paid by the bank and shall be a lien upon the bank which shall be prior to any other lien.".

SEC. 806. LIABILITY PROTECTION.

Section 209 of the Bank Conservation Act (12 U.S.C. 209) is amended to read as follows:

"SEC. 209. LIABILITY PROTECTION.

"(a) FEDERAL AGENCY AND EMPLOYEES.—In any case in which the conservator is a Federal agency or an employee of the Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

"(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

"(c) INDEMNIFICATION.—The Comptroller shall have authority to indemnify the conservator on such terms as the Comptroller deems proper.".

SEC. 807. RULES AND REGULATIONS.

Section 211 of the Bank Conservation Act (12 U.S.C. 211) is amended to read as follows:

"SEC. 211. RULES AND REGULATIONS.

"(a) IN GENERAL.—The Comptroller of the Currency may prescribe such rules and regulations as the Comptroller may deem necessary to carry out the provisions of this Act.

"(b) F.D.I.C. AS CONSERVATOR.—In any case in which the Federal Deposit Insurance Corporation is the conservator, any rules or regulations prescribed by the Comptroller shall be consistent with any rules and regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.".

SEC. 808. REPEALS.

Sections 207 and 208 of the Bank Conservation Act (12 U.S.C. 207 and 208) are repealed.

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

Subtitle A—Expanded Enforcement Powers, Increased Penalties, and Improved Accountability

SEC. 901. INSTITUTION-AFFILIATED PARTIES OF A DEPOSITORY INSTITUTION SUBJECT TO ADMINISTRATIVE ENFORCEMENT ORDERS; SUBSTITUTION OF "DEPOSITORY INSTITUTION" FOR "BANK" IN ENFORCEMENT PROVISIONS.

(a) INSTITUTION-AFFILIATED PARTY DEFINED.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(r) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this Act, the term 'institution-affiliated party' means—

"(1) any committee member, director, officer, or employee of, or agent for, an insured credit union;

"(2) any consultant, joint venture partner, and any other person as determined by the Board (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of an insured credit union; and

"(3) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured credit union.".

(b) AMENDMENTS RELATING TO USE OF "INSTITUTION-AFFILIATED PARTY".—

(1) FDIA.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b)(1)—

(i) by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank" and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "directors, officers, employees, agents, or other persons participating in the conduct of the affairs of such bank" and inserting in lieu thereof "institution-affiliated parties";

(B) in each of subsections (b)(1) and (c)—

(i) by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank" each place such term appears and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "such director, officer, employee, agent, or other person" each place such term appears and inserting in lieu thereof "such party";

(C) in subsection (e)(4), as so redesignated by section 903(a)(2) of this Act—

(i) by striking out "a director, officer, or other person from office or to prohibit his participation" and inserting in lieu thereof "an institution-affiliated party from office or to prohibit such party from participating";

(ii) by striking out "such director or officer or other person" and inserting in lieu thereof "such party";

(iii) by striking out "such director, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "he" and inserting in lieu thereof "such party";

(v) by striking out "any director, officer or other person" and inserting in lieu thereof "any such party"; and

(vi) by striking out "the director, officer, or other person concerned" and inserting in lieu thereof "such party";

(D) in subsection (e)(5), as so redesignated by section 903(a)(2) of this Act—

(i) by inserting after "the term 'officer' " the following: "within the term 'institution-affiliated party' "; and

(ii) by inserting after "the term 'director' " the following: "within the term 'institution-affiliated party' as used in this subsection";

(E) in subsection (f)—

(i) by striking out "any director, officer, or other person" and inserting in lieu thereof "any institution-affiliated party"; and

(ii) by striking out "such director, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(F) in subsection (g)(1)—

(i) by striking out "director or officer of an insured bank, or other person participating in the conduct of

the affairs of such bank" and inserting in lieu thereof "institution-affiliated party";

(ii) by striking out "the individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "such director, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(iv) by striking out "him" each place such term appears and inserting in lieu thereof "such party";

(v) by striking out "director, officer or other person" and inserting in lieu thereof "party"; and

(vi) by striking out "whereupon such director or officer" and inserting in lieu thereof "whereupon such party (if a director or an officer)";

(G) in subsection (g)(3)—

(i) by striking out "the director, officer, or other person concerned" and inserting in lieu thereof "the institution-affiliated party concerned";

(ii) by striking out "such individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "the concerned director, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "the director, officer, or other person" each place such term appears (except in "the director, officer, or other person concerned") and inserting in lieu thereof "such party";

(v) by striking out "said director, officer or other person" and inserting in lieu thereof "such party"; and

(vi) by striking out "the director, officer or other person" and inserting in lieu thereof "such party";

(H) in subsection (h)(2), by striking out "director or officer or other person" and inserting in lieu thereof "institution-affiliated party";

(I) in subsection (l), by striking out "director or officer thereof or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party"; and

(J) in subsection (m), by striking out "director or officer or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party".

(2) FCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(A) in subsection (e)(1)—

(i) by striking out "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union" and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "directors, officers, committee members, employees, agents, or other persons participating in the conduct of the affairs of such credit union" and inserting in lieu thereof "institution-affiliated parties";

(B) in each of subsections (e)(1) and (f)—

(i) by striking out "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union" each place such term appears and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "such director, officer, committee member, employee, agent, or other person" each place such term appears and inserting in lieu thereof "such party"; and

(C) in subsection (f)(1), by striking out "such director, officer, committee member, employee, agents, or other person" and inserting in lieu thereof "such party";

(D) in subsection (i)(1)—

(i) by striking out "director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union" and inserting in lieu thereof "institution-affiliated party";

(ii) by striking out "the individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "such director, committee member, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(iv) by striking out "him" and inserting in lieu thereof "such party";

(v) by striking out "director, officer or other person" and inserting in lieu thereof "party"; and

(vi) by striking out "whereupon such director, committee member, or officer" and inserting in lieu thereof "whereupon such party (if a director, a committee member, or an officer)";

(E) in subsection (i)(3)—

(i) by striking out "director, committee member, officer, or other person concerned" and inserting in lieu thereof "institution-affiliated party concerned"; and

(ii) by striking out "such individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "the concerned director, committee member, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "the director, committee member, officer, or other person" each place such term appears (except in "the director, committee member, officer, or other person concerned") and inserting in lieu thereof "such party"; and

(v) by striking out "said director, committee member, officer or other person" and inserting in lieu thereof "such party";

(F) in subsection (j)(2), by striking out "director, officer, committee member, or other person" and inserting in lieu thereof "institution-affiliated party"; and

(G) in subsection (o), by striking out "director, officer, committee member or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party".

(d) SUBSTITUTION OF "DEPOSITORY INSTITUTION" FOR "BANK".—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), as amended by subsection (b)(1) of this section, is amended by striking out "bank" and "banks" each place such terms appear and inserting in lieu thereof "depository institution" and "depository institutions", respectively, except in subsections (b)(3), (b)(4), (m), (o), and (r).

SEC. 902. AMENDMENTS TO CEASE AND DESIST AUTHORITY WITH RESPECT TO RESTITUTION, RESTRICTIONS ON SPECIFIC ACTIVITIES, GROUNDS FOR ISSUANCE OF A TEMPORARY ORDER, AND INCOMPLETE OR INACCURATE RECORDS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—

(1) CEASE AND DESIST AUTHORITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(A) in paragraph (3), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)";

(B) in paragraph (4), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)"; and

(C) by adding at the end thereof the following new paragraphs:

"(6) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (c) which requires an insured depository institution or any institution-affiliated party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such depository institution or such party to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such depository institution or such party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the appropriate Federal banking agency;

"(B) restrict the growth of the institution;

"(C) dispose of any loan or asset involved;

"(D) rescind agreements or contracts; and

"(E) employ qualified officers or employees (who may be subject to approval by the appropriate Federal banking agency at the direction of such agency); and

"(F) take such other action as the banking agency determines to be appropriate.

"(7) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (c) includes the authority to place limitations on the activities or functions of an insured depository institution or any institution-affiliated party.

"(8) EXPANSION OF AUTHORITY TO SAVINGS AND LOAN AFFILIATES AND ENTITIES.—Subsections (a) through (s) and subsection (u) shall apply to any savings and loan holding company and to any subsidiary (other than a bank or subsidiary of that bank) of a savings and loan holding company, to any service corporation of a savings association and to any subsidiary of such service

corporation, whether wholly or partly owned, in the same manner as such subsections apply to a savings association.".

(2) TEMPORARY CEASE AND DESIST AUTHORITY.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended—

(A) in paragraph (1)—

(i) by striking out "substantial" and inserting in lieu thereof "significant";

(ii) by striking out "seriously" each place such term appears; and

(iii) by inserting after the 1st sentence the following new sentence: "Such order may include any requirement authorized under subsection (b)(6)(B).''; and

(B) by adding at the end thereof the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b)(1) specifies, on the basis of particular facts and circumstances, that an insured depository institution's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable, through the normal supervisory process, to determine the financial condition of that depository institution or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that depository institution, the agency may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (b)(1) in connection with the notice of charges; or

"(II) the date the appropriate Federal banking agency determines, by examination or otherwise, that the insured depository institution's books and records are accurate and reflect the financial condition of the depository institution.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) CEASE AND DESIST AUTHORITY.—Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (f) which requires an insured credit union or any institution-affiliated party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued

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includes the authority to require such insured credit union or such party to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such credit union or such party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Board;

"(B) restrict the growth of the institution;

"(C) rescind agreements or contracts;

"(D) dispose of any loan or asset involved; and

"(E) employ qualified officers or employees (who may be subject to approval by the Board at the direction of such Board); and

"(F) take such other action as the Board determines to be appropriate.

"(4) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (f) includes the authority to place limitations on the activities or functions of an insured credit union or any institution-affiliated party.".

(2) TEMPORARY CEASE AND DESIST AUTHORITY.—Section 206(f) of the Federal Credit Union Act (12 U.S.C. 1786(f)) is amended—

(A) by redesignating paragraph (3) as paragraph (4);

(B) in paragraph (1)—

(i) by striking out "substantial" and inserting in lieu thereof "significant";

(ii) by striking out "seriously" each place such term appears; and

(iii) by inserting after the 1st sentence the following new sentence: "Such order may include any requirement authorized under subsection (e)(3)(B).."; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (e)(1) specifies, on the basis of particular facts and circumstances, that an insured credit union's books and records are so incomplete or inaccurate that the Board is unable, through the normal supervisory process, to determine the financial condition of that insured credit union or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that insured credit union, the Board may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (e)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (e)(1) in connection with the notice of charges; or

"(II) the date the Board determines, by examination or otherwise, that the insured credit union's books and records are accurate and reflect the financial condition of the credit union.".

SEC. 903. MERGER OF REMOVAL AND PROHIBITION AUTHORITY.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—

(1) IN GENERAL.—Section 8(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(1)) is amended to read as follows:

"(e) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the appropriate Federal banking agency determines that—

"(A) any institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(IV) any written agreement between such depository institution and such agency;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured depository institution or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured depository institution or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured depository institution's depositors have been or could be prejudiced; or

"(iii) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured depository institution or business institution,

the agency may serve upon such party a written notice of the agency's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured depository institution.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (4), and (5), respectively, and by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) SUSPENSION ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the appropriate Federal banking agency serves written notice under paragraph (1) or (2) to any institution-affiliated party of such agency's intention to issue an order under such paragraph, the appropriate Federal banking agency may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution, if the agency—

"(i) determines that such action is necessary for the protection of the depository institution or the interests of the depository institution's depositors; and

"(ii) serves such party with written notice of the suspension order.

"(B) EFFECTIVE PERIOD.—Any suspension order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

"(I) the date the appropriate Federal banking agency dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such party; or

"(II) the effective date of an order issued by the agency to such party under paragraph (1) or (2).

"(C) COPY OF ORDER.—If an appropriate Federal banking agency issues a suspension order under subparagraph (A) to any institution-affiliated party, the agency shall serve a copy of such order on any insured depository institution with which such party is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding after paragraph (5) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(6) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this subsection shall not—

"(A) participate in any manner in the conduct of the affairs of any institution or agency specified in paragraph (7)(A);

"(B) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in subparagraph (A);

"(C) violate any voting agreement previously approved by the appropriate Federal banking agency; or

"(D) vote for a director, or serve or act as an institution-affiliated party.".

(4) CONFORMING AMENDMENTS.—

(A) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended—

(i) by striking out "(e)(4)" and inserting in lieu thereof "(e)(3)"; and

(ii) by striking out "(e)(1), (e)(2), or (e)(3)" and inserting in lieu thereof "(e)(1) or (e)(2)".

(B) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "(1), (2), (3), or (4)" and inserting in lieu thereof "(1), (2), or (3)".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) IN GENERAL.—Section 206(g)(1) of the Federal Credit Union Act (12 U.S.C. 1786(g)(1)) is amended to read as follows:

"(g) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the Board determines that—

"(A) any institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(IV) any written agreement between such credit union and the Board;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured credit union or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured credit union or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured credit union's members have been or could be prejudiced; or

"(iii) such party has received financial gain or other benefit by reason of such violation, practice or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates such party's unfitness to serve as a director or officer of, or to otherwise participate in the conduct of the affairs of, an insured credit union,

the Board may serve upon such party a written notice of the Board's intention to remove such party from office or to prohibit any further participation, by such party, in any manner in the conduct of the affairs of any insured credit union.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3) and (5) as paragraphs (2) and (4), respectively, and by insert-

ing after paragraph (2) (as so redesignated) the following new paragraph:

"(3) SUSPENSION ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Board serves written notice under paragraph (1) or (2) to any institution-affiliated party of the Board's intention to issue an order under such paragraph, the Board may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the institution, if the Board—

"(i) determines that such action is necessary for the protection of the credit union or the interests of the credit union's members; and

"(ii) serves such person with written notice of the suspension order.

"(B) EFFECTIVE PERIOD.—Any suspension order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under paragraph (6), shall remain in effect and enforceable until—

"(I) the date the Board dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such party; or

"(II) the effective date of an order issued by the Board to such person under paragraph (1) or (2).

"(C) COPY OF ORDER.—If the Board issues a suspension order under subparagraph (A) to any institution-affiliated party, the Board shall serve a copy of such order on any insured credit union with which such party is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding after paragraph (4) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(5) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this subsection shall not—

"(A) participate in any manner in the conduct of the affairs of any institution or agency specified in paragraph (7)(A);

"(B) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in subparagraph (A);

"(C) violate any voting agreement previously approved by the appropriate Federal banking agency; or

"(D) vote for a director, or serve or act as an institution-affiliated party.".

(4) CONFORMING AMENDMENTS.—Section 206(g)(6) of the Federal Credit Union Act (12 U.S.C. 1786(g)(6)) is amended—

(A) by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)"; and

(B) by striking out "(1), (2), or (3)" and inserting in lieu thereof "(1) or (2)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act. 12 USC 1786 note.

SEC. 904. INDUSTRYWIDE APPLICATION OF REMOVAL, SUSPENSION, AND PROHIBITION ORDERS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C 1818(e)) is amended by inserting after the paragraph added by section 903(a)(3) of this Act the following new paragraph:

"(7) INDUSTRYWIDE PROHIBITION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any person who, pursuant to an order issued under this subsection or subsection (g), has been removed or suspended from office in an insured depository institution or prohibited from participating in the conduct of the affairs of an insured depository institution may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

"(i) any insured depository institution;

"(ii) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(iii) any insured credit union under the Federal Credit Union Act;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency;

"(vi) the Federal Housing Finance Board and any Federal home loan bank; and

"(vii) the Resolution Trust Corporation.

"(B) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured depository institution, such party receives the written consent of—

"(i) the agency that issued such order; and

"(ii) the appropriate Federal financial institutions regulatory agency of the institution described in any clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,

subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. Any agency that grants such a written consent shall report such action to the Corporation and publicly disclose such consent. Reports. Public information.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this paragraph

and subsection (j), the term "appropriate Federal financial institutions regulatory agency" means—

"(i) the appropriate Federal banking agency, in the case of an insured depository institution;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(iv) the Secretary of the Treasury, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

"(v) the Oversight Board, in the case of the Resolution Trust Corporation.

"(E) CONSULTATION BETWEEN AGENCIES.—The agencies referred to in clauses (i) and (ii) of subparagraph (B) shall consult with each other before providing any written consent described in subparagraph (B).

"(F) APPLICABILITY.—This paragraph shall only apply to a person who is an individual, unless the appropriate Federal banking agency specifically finds that it should apply to a corporation, firm, or other business enterprise.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(g)(7) of the Federal Credit Union Act (12 U.S.C. 1786(g)(7)) is amended to read as follows:

"(7) INDUSTRYWIDE PROHIBITION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any person who, pursuant to an order issued under this subsection or subsection (i), has been removed or suspended from office in an insured credit union or prohibited from participating in the conduct of the affairs of an insured credit union may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

"(i) any insured depository institution;

"(ii) any institution treated as an insured bank under paragraph (3) or (4) of section 8(b) of the Federal Deposit Insurance Act, or as a savings association under section 8(b)(8) of such Act;

"(iii) any insured credit union;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency;

"(vi) the Federal Housing Finance Board and any Federal home loan bank; and

"(vii) the Resolution Trust Corporation.

"(B) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured credit union, such party receives the written consent of—

"(i) the Board; and

"(ii) the appropriate Federal financial institutions regulatory agency of the institution described in any

clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,

subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. If any person receives such a written consent from the Board, the Board shall publicly disclose such consent. If the agency referred to in clause (ii) grants such a written consent, such agency shall report such action to the Board and publicly disclose such consent.

Reports. Public information.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this paragraph and subsection (1), the term "appropriate Federal financial institutions regulatory agency" means—

"(i) the appropriate Federal banking agency, as provided in section 3(q) of the Federal Deposit Insurance Act;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(iv) the Secretary of the Treasury, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

"(v) the Oversight Board, in the case of the Resolution Trust Corporation.

"(E) CONSULTATION BETWEEN AGENCIES.—The agencies referred to in clauses (i) and (ii) of subparagraph (B) shall consult with each other before providing any written consent described in subparagraph (B).

"(F) APPLICABILITY.—This paragraph shall only apply to a person who is an individual, unless the Board specifically finds that it should apply to a corporation, firm, or other business enterprise.".

SEC. 905. ENFORCEMENT PROCEEDINGS ALLOWED AFTER SEPARATION FROM SERVICE.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of an insured depository institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such depository institution (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of a institution-affiliated party (including a separation caused by the closing of an insured credit union) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such credit union (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(c) CHANGE IN CONTROL OF DEPOSITORY INSTITUTION.—Section 7(j)(15) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(15)) is amended by adding at the end thereof the following new sentence: "The resignation, termination of employment or participation, divestiture of control, or separation of or by an institution-affiliated party (including a separation caused by the closing of a depository institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this subsection against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such depository institution (whether such date occurs before, on, or after the date of the enactment of this sentence).".

(d) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end the following new paragraph:

"(6) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of a nonmember bank or a savings association) shall not affect the jurisdiction and authority of the Corporation or the Director of the Office of Thrift Supervision, as appropriate, to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such nonmember bank or such savings association (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(e) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such an association (including a separation caused by the closing of such an association) shall not affect the jurisdiction and authority of the Comptroller of the Currency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such association (whether

such date occurs before, on, or after the date of the enactment of this subsection).".

(f) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504(a)), as added by section 907(g) of this Act, is amended by adding at the end the following new subsection:

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(g) MEMBER BANKS.--Section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by adding at the end thereof the following new subsection: 12 USC 506.

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(h) BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end the following new subparagraph:

"(I) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such a bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subparagraph).".

(i) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding at the end the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a bank holding company (including a separation caused by the deregistration of such a company) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before

the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(j) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners' Loan Act (as amended by section 301 of this Act) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

SEC. 906 EXPANSION OF REMOVAL POWERS FOR STATE CRIMINAL PROCEEDINGS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof "or an agreement to enter a pre-trial diversion or other similar program".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States Attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof "or an agreement to enter a pre-trial diversion or other similar program".

SEC. 907. AMENDMENTS TO EXPAND AND INCREASE CIVIL MONEY PENALTIES.

(a) GENERAL PROVISIONS FOR DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any insured depository institution which, and any institution-affiliated party who—

"(i) violates any law or regulation;

"(ii) violates any final order or temporary order issued pursuant to subsection (b), (c), (e), (g), or (s);

"(iii) violates any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(iv) violates any written agreement between such depository institution and such agency,

shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any insured depository institution which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such insured depository institution; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such depository institution; or

"(III) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any insured depository institution which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such depository institution; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such depository institution or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than an insured depository institution, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured depository institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(E) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any penalty imposed under subparagraph (A), (B), or (C) may be assessed and collected by the appropriate Federal banking agency by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (H) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(F) AUTHORITY TO MODIFY OR REMIT PENALTY.—Any appropriate Federal banking agency may compromise, modify, or remit any penalty which such agency may assess or had already assessed under subparagraph (A), (B), or (C).

"(G) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A), (B), or (C), the appropriate agency shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured depository institution or other person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(H) HEARING.—The insured depository institution or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured depository institution or other person fails to pay an assessment after any penalty assessed under this paragraph has become final, the agency that imposed the penalty shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(K) REGULATIONS.—Each appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(b) GENERAL PROVISIONS FOR CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k)(2) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any insured credit union which, and any institution-affiliated party who—

"(i) violates any law or regulation;

"(ii) violates any final order or temporary order issued pursuant to subsection (e), (f), (g), (i), or (q);

"(iii) violates any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(iv) violates any written agreement between such credit union and such agency,

shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any insured credit union which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such credit union; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such credit union; or

"(III) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any insured credit union which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such credit union or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than an insured credit union, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured credit union, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such credit union.

"(E) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any penalty imposed under subparagraph (A), (B), or (C) may be assessed and collected by the Board by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (H) within the period of time

allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(F) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Board may compromise, modify, or remit any penalty which such agency may assess or had already assessed under subparagraph (A), (B), or (C).

"(G) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A), (B), or (C), the Board shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured credit union or the person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(H) HEARING.—The insured credit union or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured credit union or other person fails to pay an assessment after any penalty assessed under this paragraph has become final, the Board shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(c) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Paragraphs (4) and (5) of section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) are amended to read as follows:

"(4) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any nonmember insured bank or savings association which, and any institution-affiliated party who, violates any provision of section 22(h), 23A, or 23B of the Federal Reserve Act or any lawful regulation issued pursuant thereto, and any nonmember insured bank which, and any institution-affiliated party who, violates any provision of section 20 of the Banking Act of 1933, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any nonmember insured bank or savings association which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank or association, as the case may be; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) results in more than a minimal loss to such bank or association, as the case may be; or

"(III) causes or is likely to cause pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any nonmember insured bank or savings association which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such bank or association; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such bank or association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than a nonmember insured bank or savings association, an amount to not exceed $1,000,000; and

"(ii) in the case of any nonmember insured bank or savings association, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such bank or association.

"(E) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A), (B), or (C) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(F) HEARING.—The nonmember insured bank, savings association, or other person against whom any penalty is assessed under this paragraph shall be afforded an agency

hearing if such nonmember insured bank, savings association, or other person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.

"(G) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(5) REGULATIONS.—The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out paragraph (4).".

(d) CHANGE IN CONTROL OF DEPOSITORY INSTITUTION.—Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency under this subsection, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any person who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of a depository institution; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such institution; or

"(III) results in pecuniary gain or other benefit to such person,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any person who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of a depository institution; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such institution or a substantial pecuniary gain or other benefit to such person by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (c).—The maximum daily amount of any civil penalty which may be assessed pursu-

ant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than a depository institution, an amount to not exceed $1,000,000; and

"(ii) in the case of a depository institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(E) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A), (B), or (C) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(F) HEARING.—The depository institution or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or other person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.

"(G) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.".

(e) NATIONAL BANKS.—Section 5239(b) of the Revised Statutes (12 U.S.C. 93(b)) is amended to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) FIRST TIER.—Any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who, violates any provision of this title or any of the provisions of the first section of the Act of September 28, 1962, (76 Stat. 668; 12 U.S.C. 92a), or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(2) SECOND TIER.—Notwithstanding paragraph (1), any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who, commits any violation described in paragraph (1) which—

"(A)(i) commits any violation described in any paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such association; or

"(iii) breaches any fiduciary duty;

"(B) which violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such association; or

"(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who—

"(A) knowingly—

"(i) commits any violation described in paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such association; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

"(A) in the case of any person other than a national banking association, an amount to not exceed $1,000,000; and

"(B) in the case of a national banking association, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such association.

"(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(6) HEARING.—The association or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(8) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(12) REGULATIONS.—The Comptroller shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(f) NATIONAL BANKS.—The 2d paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking "$100" and inserting "$5,000".

(g) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504) is amended to read as follows:

"SEC. 29. CIVIL MONEY PENALTY.

"(a) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of section 22, 23A, or 23B, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(b) SECOND TIER.—Notwithstanding subsection (a), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who

"(1)(A) commits any violation described in subsection (a);

"(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

"(C) breaches any fiduciary duty;

"(2) which violation, practice, or breach—

"(A) is part of a pattern of misconduct;

"(B) causes or is likely to cause more than a minimal loss to such member bank; or

"(C) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(c) THIRD TIER.—Notwithstanding subsections (a) and (b), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(1) knowingly—

"(A) commits any violation described in subsection (a);

"(B) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(C) breaches any fiduciary duty; and

"(2) knowingly or recklessly causes a substantial loss to such credit union or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach, shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

"(d) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBSECTION (c).—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

"(1) in the case of any person other than a member bank, an amount to not exceed $1,000,000; and

"(2) in the case of a member bank, an amount not to exceed the lesser of—

"(A) $1,000,000; or

"(B) 1 percent of the total assets of such member bank.

"(e) ASSESSMENT; ETC.—Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by

"(1) in the case of a national bank, by the Comptroller of the Currency; and

"(2) in the case of a State member bank, by the Board, in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties

imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(f) HEARING.—The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(g) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(h) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(i) REGULATIONS.—The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.".

(h) MEMBER BANK.—Section 19(l) of the Federal Reserve Act (12 U.S.C. 505(l)) is amended to read as follows:

"(l) CIVIL MONEY PENALTY.—

"(1) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(2) SECOND TIER.—Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(A)(i) commits any violation described in paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

"(iii) breaches any fiduciary duty;

"(B) which violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such member bank; or

"(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(A) knowingly—

"(i) commits any violation described in paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other

benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

"(A) in the case of any person other than a member bank, an amount not to exceed $1,000,000; and

"(B) in the case of a member bank, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such member bank.

"(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(6) HEARING.—The member bank or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(8) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(9) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(i) BANKS.—Section 106(b)(2)(F) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)) is amended to read as follows:

"(F) CIVIL MONEY PENALTY.—

"(i) FIRST TIER.—Any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who, violates any provision of this paragraph shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(ii) SECOND TIER.—Notwithstanding clause (i), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

"(I)(aa) commits any violation described in clause (i);

"(bb) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank; or

"(cc) breaches any fiduciary duty;

"(II) which violation, practice, or breach—

"(aa) is part of a pattern of misconduct;

"(bb) causes or is likely to cause more than a minimal loss to such bank; or

"(cc) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

"(I) knowingly—

"(aa) commits any violation described in clause (i);

"(bb) engages in any unsafe or unsound practice in conducting the affairs of such bank; or

"(cc) breaches any fiduciary duty; and

"(II) knowingly or recklessly causes a substantial loss to such bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under clause (iv) for each day during which such violation, practice, or breach continues.

"(iv) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN CLAUSE (iii).—The maximum daily amount of any civil penalty which may be assessed pursuant to clause (iii) for any violation, practice, or breach described in such clause is—

"(I) in the case of any person other than a bank, an amount to not exceed $1,000,000; and

"(II) in the case of a bank, an amount not to exceed the lesser of—

"(aa) $1,000,000; or

"(bb) 1 percent of the total assets of such bank.

"(v) ASSESSMENT; ETC.—Any penalty imposed under clause (i), (ii), or (iii) may be assessed and collected—

"(I) in the case of a national bank, by the Comptroller of the Currency;

"(II) in the case of a State member bank, by the Board; and

"(III) in the case of an insured nonmember State bank, by the Federal Deposit Insurance Corporation,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(vi) HEARING.—The bank or other person against whom any penalty is assessed under this subparagraph shall be afforded an agency hearing if such bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subparagraph.

"(vii) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(viii) VIOLATE DEFINED.—For purposes of this paragraph, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ix) REGULATIONS.—The Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation shall prescribe regulations establishing such procedures as may be necessary to carry out this subparagraph.".

(j) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) in subsection (a), by striking out the first 2 sentences and inserting in lieu thereof the following:

"(a) CRIMINAL PENALTY.—

"(1) Whoever knowingly violates any provision of this Act or, being a company, violates any regulation or order issued by the Board under this Act, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(2) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this Act shall be imprisoned not more than 5 years, fined not more than $1,000,000 per day for each day during which the violation continues, or both."; and

(2) by amending subsection (b) to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) PENALTY.—Any company which violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(3) HEARING.—The company or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(4) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(k) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners Loan Act of 1933 (as amended by section 301 of this Act) is amended—

(1) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) CRIMINAL PENALTY.—

"(A) Whoever knowingly violates any provision of this section or being a company, violates any regulation or order issued by the Director under this section, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(B) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this section shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.";

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) by amending paragraph (3) (as so redesignated by paragraph (2) of this subsection) to read as follows:

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

12 USC 93 note.

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to conduct engaged in by any person after the date of the enactment of this Act, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such conduct engaged in before such date if such conduct—

(1) is not already subject to a notice (initiating an administrative proceeding) issued by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) or the National Credit Union Administration Board; and

(2) occurred after the completion of the last report of examination of the institution involved by the appropriate Federal

banking agency (as so defined) occurring before the date of the enactment of this Act.

SEC. 908. CLARIFICATION OF CRIMINAL PENALTY PROVISIONS FOR VIOLATION OF CERTAIN ORDERS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended to read as follows:

"(j) CRIMINAL PENALTY.—Whoever, being subject to an order in effect under subsection (e) or (g), without the prior written approval of the appropriate Federal financial institutions regulatory agency, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (e)(6)) in the conduct of the affairs of—

"(1) any insured depository institution;

"(2) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(3) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(4) any institution chartered under the Farm Credit Act of 1971; or

"(5) the Resolution Trust Corporation,

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(l) of the Federal Credit Union Act (12 U.S.C. 1786(l)) is amended to read as follows:

"(l) CRIMINAL PENALTY FOR VIOLATION OF CERTAIN ORDERS.—Whoever—

"(1) under this Act, is suspended or removed from, or prohibited from participating in the affairs of any credit union described in section 206(g)(5); and

"(2) knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (g)(5)) in the conduct of the affairs of such a credit union;

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

SEC. 909. SUPERVISORY RECORDS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 214 of this Act) the following new subsection:

"(o) SUPERVISORY RECORDS.—In addition to the requirements of section 7(a)(2) to provide to the Corporation copies of reports of examination and reports of condition, whenever the Corporation has been appointed as receiver for an insured depository institution, the appropriate Federal banking agency shall make available all supervisory records to the receiver which may be used by the receiver in any manner the receiver determines to be appropriate.".

SEC. 910. INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUALS.

(a) BANKS INSURED BY THE FDIC.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"SEC. 19. PENALTY FOR UNAUTHORIZED PARTICIPATION BY CONVICTED INDIVIDUAL.

"(a) PROHIBITION.—Except with the prior written consent of the Corporation—

"(1) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured depository institution; and

"(2) an insured depository institution may not permit such participation.

"(b) PENALTY.—Whoever knowingly violates subsection (a) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PENALTY FOR PROHIBITED PARTICIPATION.—

"(1) PROHIBITION —Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured credit union; and

"(B) an insured credit union may not permit such participation.

"(2) PENALTY.—Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 911. AMENDMENTS TO VARIOUS PROVISIONS OF LAW RELATING TO REPORTS.

(a) BANK PROTECTION ACT.—Section 3(b) of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking out "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) AMENDMENTS RELATING TO NATIONAL BANKS.—

(1) Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(A) in the 5th sentence of subsection (a), by striking out "within ten days after the receipt of a request therefor from him" and inserting in lieu thereof "within the period of time specified by the Comptroller"; and

(B) in subsection (c), by striking out the last sentence.

(2) Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended to read as follows:

"SEC. 5213. PENALTY FOR FAILURE TO MAKE REPORTS.

"(a) FIRST TIER.—Any association which—

"(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

"(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter, within the period of time specified by the Comptroller; or

"(B) submits or publishes any false or misleading report or information; or

"(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(b) SECOND TIER.—Any association which—

"(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter, within the period of time specified by the Comptroller; or

"(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(c) THIRD TIER.—Notwithstanding subsections (a) and (b), if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than $1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(d) ASSESSMENT; ETC.—Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(e) HEARING.—Any association against which any penalty is assessed under this subsection shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.".

(c) AMENDMENT RELATING TO STATE NONMEMBER INSURED BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentences: "Any such bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any such bank which fails to make or publish any report required under this

paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any such bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Corporation may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any such bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.".

(d) AMENDMENT RELATING TO STATE MEMBER BANKS.—The 6th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking out the penultimate sentence and inserting in lieu thereof the following new sentences: "Any bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any bank which fails to make or publish such reports within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any bank against which

any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.".

(e) AMENDMENT RELATING TO BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding after the subsection added by section 905(i) of this Act the following new subsection:

"(d) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any company which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board pursuant to this Act, within the period of time specified by the Board; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The company shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any company which—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board pursuant to this Act, within the period of time specified by the Board; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board in the manner provided in subsection (b) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any company against which any penalty is assessed under this subsection shall be afforded an agency hearing if such company submits a request for such hearing

within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

(f) AMENDMENT RELATING TO CREDIT UNIONS.—Section 202(a)(3) of the Federal Credit Union Act (12 U.S.C. 1782(a)(3)) is amended by striking out the 2nd sentence and inserting in lieu thereof the following new sentences: "Any insured credit union which maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit or publish any report required under this subsection or section 106, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any insured credit union which fails to submit or publish any report required under this subsection or section 106, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any insured credit union knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such credit union, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any insured credit union against which any penalty is assessed under this subsection shall be afforded an agency hearing if such insured credit union submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 206(j) shall apply to any proceeding under this subsection.".

12 USC 161 note.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act.

SEC. 912. AUTHORITY OF THE FDIC TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.—

"(1) AUTHORITY TO RECOMMEND THAT DIRECTOR OF OFFICE OF THRIFT SUPERVISION TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of a savings association by the Corporation or by the Director of the Office of Thrift Supervision or on other information, may recommend that the Direc-

tor take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any savings association.

"(2) AUTHORITY OF BOARD TO ORDER CORPORATION TO TAKE ENFORCEMENT ACTION IF DIRECTOR OF OFFICE OF THRIFT SUPERVISION FAILS TO FOLLOW RECOMMENDATION.—If the Director fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Corporation as set forth in its recommendation before the close of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may order the Corporation to take such action if the Board determines that—

"(A) the association is in an unsafe or unsound condition; or

"(B) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the savings association.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may order the Corporation to exercise its authority, without regard to the time period set forth, in exigent circumstances after notifying the Director.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the Director, set forth those exigent circumstances in which the Corporation may act without regard to the time period set forth above.

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—The regional offices of the Office of Thrift Supervision shall concurrently submit all requests for formal investigations or enforcement actions to both the Director and the Corporation.

"(B) DIRECTOR REQUIRED TO REPORT ON REQUESTS.—The Director shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the Director's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—Any decisions by the Board of Directors to order actions described in this subsection shall not be delegated.".

SEC. 913. PUBLIC DISCLOSURE OF ENFORCEMENT ACTIONS REQUIRED.

(a) ORDERS ISSUED BY APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8 of the Federal Deposit Insurance Act is amended by adding after the subsection added by section 912 of this Act the following new subsection:

"(u) PUBLIC DISCLOSURE OF FINAL ORDERS.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A) of this paragraph.

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten

the safety or soundness of an insured depository institution, such agency may delay the publication of such order for a reasonable time.".

(b) ORDERS ISSUED BY NCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after the subsection added by section 901(b) of this Act the following new subsection:

"(s) PUBLIC DISCLOSURE OF FINAL ORDERS.—

"(1) IN GENERAL.—The Board shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A).

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured credit union or other federally regulated depository institution, the Board may delay the publication of such order for a reasonable time.".

SEC. 914. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF CERTAIN DEPOSITORY INSTITUTIONS.

(a) DEPOSITORY INSTITUTION INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 226 of this Act the following new section:

12 USC 1831i.

"SEC. 32. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF INSURED DEPOSITORY INSTITUTIONS OR DEPOSITORY INSTITUTION HOLDING COMPANIES.

"(a) PRIOR NOTICE REQUIRED.—An insured depository institution or depository institution holding company shall notify the appropriate Federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution or holding company at least 30 days before such addition or employment becomes effective, if the insured depository institution or depository institution holding company—

"(1) has been chartered less than 2 years in the case of an insured depository institution;

"(2) has undergone a change in control within the preceding 2 years; or

"(3) is not in compliance with the minimum capital requirement applicable to such institution or is otherwise in a troubled condition, as determined by such agency on the basis of such institution's or holding company's most recent report of condition or report of examination or inspection.

"(b) DISAPPROVAL BY AGENCY.—An insured depository institution or depository institution holding company may not add any individual to the board of directors or employ any individual as a senior executive officer if the appropriate Federal banking agency issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Each appropriate Federal banking agency may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF AGENCY.—Such waivers shall not affect the authority of each agency to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to an appropriate Federal banking agency with respect to an individual by any insured depository institution or depository institution holding company pursuant to subsection (a) shall include—

"(1) the information described in section 7(j)(6)(A) about the individual; and

"(2) such other information as the agency may prescribe by regulation.

"(e) STANDARD FOR DISAPPROVAL.—The appropriate Federal banking agency shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the depository institution or in the best interests of the public to permit the individual to be employed by, or associated with, the depository institution or depository institution holding company.

"(f) DEFINITION REGULATIONS.—Each appropriate Federal banking agency shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Insurance Act (12 U.S.C. 1781 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 212. BOARD DISAPPROVAL OF DIRECTORS, COMMITTEE MEMBERS, AND SENIOR EXECUTIVE OFFICERS OF INSURED CREDIT UNIONS. 12 USC 1790a.

"(a) PRIOR NOTICE REQUIRED.—An insured credit union shall notify the Board of the proposed addition of any individual to the board of directors or committee or the employment of any individual as a senior executive officer of such credit union at least 30 days before such addition or employment becomes effective, if the insured credit union—

"(1) has been chartered less than 2 years; or

"(2) is in troubled condition, as determined on the basis of such credit union's most recent report of condition or report of examination.

"(b) DISAPPROVAL BY THE BOARD.—An insured credit union may not add any individual to the board of directors or employ any individual as a senior executive officer if the Board issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—The Board may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF BOARD.—Such waivers shall not affect the authority of the Board to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to the Board by any insured credit union pursuant to subsection (a) shall include—

"(1) the information described in section 7(j)(6)(A) of the Federal Deposit Insurance Act about the individual; and

"(2) such other information as the Board may prescribe by regulation.

"(e) STANDARD FOR DISAPPROVAL.—The Board shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the insured credit union or in the best interests of the public to permit the individual to be employed by, or associated with, such insured credit union.

"(f) DEFINITION REGULATIONS.—The Board shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

SEC. 915. CLARIFICATION OF NCUA'S AUTHORITY TO CONDUCT COMPLIANCE INVESTIGATIONS.

(a) EXAMINATIONS.—Section 204(b) of the Federal Credit Union Act (12 U.S.C. 1784(b)) is amended—

(1) by inserting after "insured credit unions," the following: "or with other types of investigations to determine compliance with applicable law and regulations,"; and

(2) by inserting after "subpena duces tecum" the following: "and to exercise such others powers as are set forth in section 206(p)".

(b) ENFORCEMENT.—Section 206(p) of the Federal Credit Union Act (12 U.S.C. 1786(p)) is amended in the 1st sentence—

(1) by inserting after "any proceeding under this section" the following: "or in connection with any claim for insured deposits or any examination or investigation under section 204(b)";

(2) by inserting after "the Board" the 1st place such term appears the following: ", in conducting the proceeding, examination, or investigation or considering the claim for insured deposits,"; and

(3) by inserting ", claims, examinations, or investigations" before the period.

(c) PAYMENT OF CLAIMS.—Section 207(c)(1) of the Federal Credit Union Act (12 U.S.C. 1787(c)(1)) is amended in the last sentence by inserting after "before paying the insured accounts," the following: "may investigate said claims under section 206(p),".

12 USC 1818 note.

SEC. 916. IMPROVED ADMINISTRATIVE HEARINGS AND PROCEDURES.

Before the close of the 24-month period beginning on the date of the enactment of this Act, the appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall jointly—

(1) establish their own pool of administrative law judges, and

(2) develop a set of uniform rules and procedures for administrative hearings, including provisions for summary judgment

rulings where there are no disputes as to material facts of the case.

SEC. 917. TASK FORCE STUDY OF DELEGATION OF ENFORCEMENT ACTIONS.

12 USC 1818 note.

(a) CREATION OF TASK FORCE.—The appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall create a joint task force to study the desirability and feasibility of delegating investigation and enforcement authority to their regional or district offices or banks.

(b) COMPOSITION OF TASK FORCE.—The composition of the task force shall be reasonably balanced between officials from headquarters and officials from the regions, districts, or district banks.

(c) REPORT.—Not later than September 30, 1990, the task force shall report to the Congress the findings and recommendations of the Task Force, together with the responses of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the National Credit Union Administration.

SEC. 918. ANNUAL REPORT TO CONGRESS.

12 USC 1833.

(a) IN GENERAL.—Each agency described in subsection (b) shall submit an annual report to the Congress which shall contain the following information with respect to the 12-month period for which such report is made:

(1) The number of formal and informal supervisory, administrative, and civil enforcement actions initiated by such agency during such 12-month period, and the number of such actions completed by such agency during such 12-month period, including actions initiated or taken with respect to memoranda of understanding, written agreements, cease and desist orders (including temporary orders), suspension orders, removal or prohibition orders, and civil money penalty assessments.

(2) The number of individuals and institutions against whom civil money penalties were assessed by such agency during such 12-month period, the amount of each such penalty, the total amount of all such penalties, and data on uncollected penalties for such period and prior years.

(3) A description of all other enforcement efforts and initiatives relating to unsafe and unsound practices, criminal misconduct, and insider abuse which were undertaken by such agency during such 12-month period.

(4) The number of criminal referrals made to the Department of Justice.

(5) With respect to the criminal referrals received by the Department of Justice and with respect to investigations of similar matters initiated without such a referral, the number and status of grand jury investigations and investigations being conducted by the Federal Bureau of Investigation, and the number and disposition of prosecutions and civil actions commenced by the Attorney General.

(6) Recommendations concerning the need for additional legislation or financial resources.

(b) AGENCIES REQUIRED TO SUBMIT REPORTS.—The agencies referred to in subsection (a) are as follows:

(1) The Comptroller of the Currency.
(2) The Board of Governors of the Federal Reserve System.
(3) The Federal Deposit Insurance Corporation.
(4) The Federal Housing Finance Board.
(5) The Office of Thrift Supervision.
(6) The National Credit Union Administration.
(7) The Attorney General of the United States.

SEC. 919. CREDIT UNION AUDIT REQUIREMENTS.

Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end thereof the following new paragraph:

"(6) AUDIT REQUIREMENT.—

Regulations.

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and notwithstanding any other provision of Federal or State law, the Board shall prescribe, by regulation, audit standards which require an outside, independent audit of any insured credit union by a certified public accountant for any fiscal year (of such credit union)—

"(i) for which such credit union has not conducted an annual supervisory committee audit;

"(ii) for which such credit union has not received a complete and satisfactory supervisory committee audit; or

"(iii) during which such credit union has experienced persistent and serious recordkeeping deficiencies, as determined by the Board.

"(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) as an unsafe or unsound practice within the meaning of section 206(b).".

SEC. 920. TECHNICAL AMENDMENTS RELATING TO ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) FDIA.—Section 8(h)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(2)) is amended by striking "Any party" and all that follows through "therein," and inserting in lieu thereof "Any party to any proceeding under paragraph (1)".

(b) FCUA.—Section 206(j)(2) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)) is amended by striking "Any party" and all that follows through "therein," and inserting in lieu thereof "Any party to any proceeding under paragraph (1)".

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out all that follows "(k)".

Subtitle B—Termination of Deposit Insurance

SEC. 926. REVISION OF PROCEDURES FOR TERMINATION OF FDIC DEPOSIT INSURANCE.

Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) by striking out "(a) Any insured bank" and all that follows through the period at the end of the 4th sentence and inserting in lieu thereof the following:

"(a) TERMINATION OF INSURANCE.—

"(1) VOLUNTARY TERMINATION.—Any insured depository institution which is not—

"(A) a national member bank;

"(B) a State member bank;

"(C) a Federal branch;

"(D) a Federal savings association; or

"(E) an insured branch which is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978,

may terminate such depository institution's status as an insured depository institution if such insured institution provides written notice to the Corporation of the institution's intent to terminate such status not less than 90 days before the effective date of such termination.

"(2) INVOLUNTARY TERMINATION.—

"(A) NOTICE TO PRIMARY REGULATOR.—If the Board of Directors determines that—

"(i) an insured depository institution or the directors or trustees of an insured depository institution have engaged or are engaging in unsafe or unsound practices in conducting the business of the depository institution;

"(ii) an insured depository institution is in an unsafe or unsound condition to continue operations as an insured institution; or

"(iii) an insured depository institution or the directors or trustees of the insured institution have violated any applicable law, regulation, order, condition imposed in writing by the Corporation in connection with the approval of any application or other request by the insured depository institution, or written agreement entered into between the insured depository institution and the Corporation,

the Board of Directors shall notify the appropriate Federal banking agency with respect to such institution (if other than the Corporation) or the State banking supervisor of such institution (if the Corporation is the appropriate Federal banking agency) of the Board's determination and the facts and circumstances on which such determination is based for the purpose of securing the correction of such practice, condition, or violation. Such notice shall be given to the appropriate Federal banking agency not less than 30 days before the notice required by subparagraph (B), except that this period for notice to the appropriate Federal banking agency may be reduced or eliminated with the agreement of such agency.

"(B) NOTICE OF INTENTION TO TERMINATE INSURANCE.—If, after giving the notice required under subparagraph (A) with respect to an insured depository institution, the Board of Directors determines that any unsafe or unsound practice or condition or any violation specified in such notice requires the termination of the insured status of the insured depository institution, the Board shall—

"(i) serve written notice to the insured depository institution of the Board's intention to terminate the insured status of the institution;

"(ii) provide the insured depository institution with a statement of the charges on the basis of which the determination to terminate such institution's insured status was made (or a copy of the notice under subparagraph (A)); and

"(iii) notify the insured depository institution of the date (not less than 30 days after notice under this subparagraph) and place for a hearing before the Board of Directors (or any person designated by the Board) with respect to the termination of the institution's insured status.

"(3) HEARING; TERMINATION.—If, on the basis of the evidence presented at a hearing before the Board of Directors (or any person designated by the Board for such purpose), in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code, and the written findings of the Board of Directors (or such person) with respect to such evidence (which shall be conclusive), the Board of Directors finds that any unsafe or unsound practice or condition or any violation specified in the notice to an insured depository institution under subparagraph (B) has been established, the Board of Directors may issue an order terminating the insured status of such depository institution effective as of a date subsequent to such finding.";

(2) by striking out "Unless the" and inserting in lieu thereof the following:

"(4) APPEARANCE; CONSENT TO TERMINATION.—Unless the";

(3) by striking out "Any insured" and all that follows through "status" the 1st place such term appears and inserting in lieu thereof the following:

"(5) JUDICIAL REVIEW.—Any insured depository institution whose insured status";

(4) by striking out "The Corporation may publish" and inserting in lieu thereof the following:

"(6) PUBLICATION OF NOTICE OF TERMINATION.—The Corporation may publish";

(5) by striking out "After the termination of the insured status" and inserting in lieu thereof the following:

"(7) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—After the termination of the insured status";

(6) in paragraph (7) (as so designated by the amendment made by paragraph (5) of this section)—

(A) by striking out "of two years" the 1st place such term appears and inserting in lieu thereof "of at least 6 months or up to 2 years, within the discretion of the Board of Directors";

(B) by striking out "of two years" the 2nd place such term appears and inserting in lieu thereof "the period referred to in the 1st sentence"; and

(C) by striking out "of two years" the 3rd place such term appears;

(7) by adding at the end the following new paragraphs:

"(8) TEMPORARY SUSPENSION OF INSURANCE.—

"(A) IN GENERAL.—If the Board of Directors initiates a termination proceeding under paragraph (2), and the Board of Directors, after consultation with the appropriate Federal banking agency, finds that an insured depository institution (other than a savings association to which subparagraph (B) applies) has no tangible capital under the capital guidelines or regulations of the appropriate Federal banking agency, the Corporation may issue a temporary order suspending deposit insurance on all deposits received by the institution.

"(B) SPECIAL RULE FOR CERTAIN SAVINGS INSTITUTIONS.—

"(i) CERTAIN GOODWILL INCLUDED IN TANGIBLE CAPITAL.—In determining the tangible capital of a savings association for purposes of this paragraph, the Board of Directors shall include goodwill to the extent it is considered a component of capital under section 5(t) of the Home Owners' Loan Act. Any savings association which would be subject to a suspension order under subparagraph (A) but for the operation of this subparagraph, shall be considered by the Corporation to be a 'special supervisory association'.

"(ii) SUSPENSION ORDER.—The Corporation may issue a temporary order suspending deposit insurance on all deposits received by a special supervisory association whenever the Board of Directors determines that—

"(I) the capital of such association, as computed utilizing applicable accounting standards, has suffered a material decline;

"(II) that such association (or its directors or officers) is engaging in an unsafe or unsound practice in conducting the business of the association;

"(III) that such association is in an unsafe or unsound condition to continue operating as an insured association; or

"(IV) that such association (or its directors or officers) has violated any applicable law, rule, regulation, or order, or any condition imposed in writing by a Federal banking agency, or any written agreement including a capital improvement plan entered into with any Federal banking agency, or that the association has failed to enter into a capital improvement plan which is acceptable to the Corporation within the time period set forth in section 5(t) of the Home Owners' Loan Act.

Nothing in this paragraph limits the right of the Corporation or the Director of the Office of Thrift Supervision to enforce a contractual provision which authorizes the Corporation or the Director of the Office of Thrift Supervision, as a successor to the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board, to require a savings association to write down or amortize goodwill at a faster rate than otherwise required under this Act or under applicable accounting standards.

"(C) EFFECTIVE PERIOD OF TEMPORARY ORDER.—Any order issued under subparagraph (A) shall become effective not earlier than 10 days from the date of service upon the

institution and, unless set aside, limited, or suspended by a court in proceedings authorized hereunder, such temporary order shall remain effective and enforceable until an order of the Board under paragraph (3) becomes final or until the Corporation dismisses the proceedings under paragraph (3).

"(D) JUDICIAL REVIEW.—Before the close of the 10-day period beginning on the date any temporary order has been served upon an insured depository institution under subparagraph (A), such institution may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the home office of the institution is located, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order, and such court shall have jurisdiction to issue such injunction.

"(E) CONTINUATION OF INSURANCE FOR PRIOR DEPOSITS.—The insured deposits of each depositor in such depository institution on the effective date of the order issued under this paragraph, minus all subsequent withdrawals from any deposits of such depositor, shall continue to be insured, subject to the administrative proceedings as provided in this Act.

"(F) PUBLICATION OF ORDER.—The depository institution shall give notice of such order to each of its depositors in such manner and at such times as the Board of Directors may find to be necessary and may order for the protection of depositors.

"(G) NOTICE BY CORPORATION.—If the Corporation determines that the depository institution has not substantially complied with the notice to depositors required by the Board of Directors, the Corporation may provide such notice in such manner as the Board of Directors may find to be necessary and appropriate.

"(H) LACK OF NOTICE.—Notwithstanding subparagraph (A), any deposit made after the effective date of a suspension order issued under this paragraph shall remain insured to the extent that the depositor establishes that—

(i) such deposit consists of additions made by automatic deposit the depositor was unable to prevent; or

(ii) such depositor did not have actual knowledge of the suspension of insurance.

"(9) FINAL DECISIONS TO TERMINATE INSURANCE.—Any decision by the Board of Directors to—

"(A) issue a temporary order terminating deposit insurance; or

"(B) issue a final order terminating deposit insurance (other than under subsection (p) or (q));

shall be made by the Board of Directors and may not be delegated.

"(10) LOW- TO MODERATE-INCOME HOUSING LENDER.—In making any determination regarding the termination of insurance of a solvent savings association, the Corporation may consider the extent of the association's low- to moderate-income housing loans.".

Subtitle C—Improving Early Detection of Misconduct and Encouraging Informants

SEC. 931. INFORMATION REQUIRED TO BE MADE AVAILABLE TO OUTSIDE AUDITORS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end thereof the following new paragraph:

"(8) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such depository institution within the past 2 years shall transmit to such auditor a copy of the the most recent report of condition made by such depository institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such depository institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured depository institution shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such depository institution and any written agreement between a Federal or State banking agency and the depository institution which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by a Federal banking agency during such period under subsection (a), (b), (c), (e), (g), (i), or (s) of section 8, or of any similar action taken by a State banking agency under State law, or any other civil money penalty assessed under any other provision of law with respect to—

"(I) the depository institution; or

"(II) any institution-affiliated party.".

(b) INSTITUTIONS INSURED BY THE NCUA.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding after the paragraph added by section 922 of this Act the following new paragraph:

"(7) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured credit union which has engaged the services of an independent auditor to audit such depository institution within the past 2 years shall transmit to such auditor a copy of the most recent report of condition made by such credit union (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such credit union.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured credit union shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such credit union and any written agreement between the Board or a State regulatory agency

and the credit union which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by the Board during such period under subsection (e), (f), (g), (i), (l), or (q) of section 206, or any similar action taken by a State regulatory agency under State law, or any other civil money penalty assessed by the Board under this Act, with respect to—

"(I) the credit union; or

"(II) any institution-affiliated party.".

SEC. 932. DEPOSITORY INSTITUTION EMPLOYEE PROTECTION REMEDY.

(a) EMPLOYEES OF DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 914(a) of this Act the following new section:

12 USC 1831j.

"SEC. 33. DEPOSITORY INSTITUTION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding a possible violation of any law or regulation by the depository institution or any of its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal banking agency.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the depository institution which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.".

(b) EMPLOYEES OF CREDIT UNIONS INSURED BY THE NCUA.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after the section added by section 914(b) of this Act the following new section:

12 USC 1790b.

"SEC. 213. CREDIT UNION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because

the employee (or any person acting pursuant to the request of the employee) provided information to the Board or to the Attorney General regarding a possible violation of any law or regulation by the credit union or any of its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the Board.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the credit union which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages, or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATIONS.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation, or

"(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.".

SEC. 933. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 932(a) of this Act the following new section:

"SEC. 34. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES. 12 USC 1831k.

"(a) IN GENERAL.—An appropriate Federal banking agency, with the concurrence of the Attorney General, may pay a reward to a person who provides original information which leads to—

"(1) recovery, in an amount that exceeds $50,000, of a criminal fine, restitution, or civil penalty—

"(A) under—

"(i) the Federal Deposit Insurance Act;

"(ii) the Federal Credit Union Act;

"(iii) sections 5213, 5239(b), and 5240 of the Revised Statutes;

"(iv) the Federal Reserve Act;

"(v) the Bank Holding Company Act Amendments of 1970;

"(vi) the Bank Holding Company Act of 1956;

"(vii) the Home Owners' Loan Act; or

"(viii) section 3663 of title 18, United States Code, pursuant to a conviction for an offense referred to in subparagraph (B) of this paragraph,

"(B) pursuant to a conviction for an offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation, or for a conspiracy to commit such an offense; or

"(C) under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; or

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that—

"(A) arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation; and

"(B) exceeds $50,000.

"(b) PERCENTAGE LIMITATION.—An appropriate Federal banking agency may not pay a reward under subsection (a) of more than 25 percent of the amount of the fine, penalty, restitution, or forfeiture or $100,000, whichever is less.

"(c) OFFICIALS AND PERSONS INELIGIBLE.—An appropriate Federal banking agency may not pay a reward under subsection (a) to—

"(1) an officer or employee of the United States or of a State or local government who provides information described in subsection (a), obtained in the performance of official duties; or

"(2) a person who—

"(A) deliberately causes or participates in the alleged violation of law or regulation, or

"(B) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

"(d) NONREVIEWABILITY.—Any agency decision under this section is final and not reviewable by any court.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Act (12 U.S.C. 1790 et seq.) is amended by inserting after the section added by section 932(b) of this Act the following new section:

12 USC 1790c.

"SEC. 214. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

"The Board may pay rewards in connection with an offense affecting an insured credit union, under the same circumstances and subject to the same limitations that a Federal banking agency may pay rewards under section 33 of the Federal Deposit Insurance Act in connection with an offense affecting a depository institution insured by the Federal Deposit Insurance Corporation.".

Subtitle D—Right to Financial Privacy Act Amendments

SEC. 941. DEFINITIONS.

Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), as amended by section 744(b) of this Act, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) in paragraph (7) (as so redesignated), by striking all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(7) 'supervisory agency' means with respect to any particular financial institution, holding company, or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition, business operations, or records or transactions of that institution, holding company, or subsidiary—"; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) 'holding company' means—

"(A) any bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(B) any company described in section 3(f)(1) of the Bank Holding Company Act of 1956; and

"(C) any savings and loan holding company (as defined in the Home Owners' Loan Act);".

SEC. 942. ADDITIONAL EXCEPTIONS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(b)) is amended—

(1) by amending subsection (b) to read as follows:

"(b) This chapter shall not apply to the examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions, including conservatorship or receivership functions, with respect to any financial institution, holding company, subsidiary of a financial institution or holding company, institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a financial institution, holding company, or subsidiary, or other person participating in the conduct of the affairs thereof."; and

(2) by adding at the end the following new subsections:

"(m) This title shall not apply to the examination by or disclosure to employees or agents of the Board of Governors of the Federal Reserve System or any Federal Reserve Bank of financial records or information in the exercise of the Federal Reserve System's authority to extend credit to the financial institutions or others.

"(n) This title shall not apply to the examination by or disclosure to the Resolution Trust Corporation or its employees or agents of financial records or information in the exercise of its conservatorship, receivership, or liquidation functions with respect to a financial institution.

"(o) This title shall not apply to the examination by or disclosure to the Federal Housing Finance Board or any of the Federal home loan banks of financial records or information in the exercise of the Federal Housing Finance Board's authority to extend credit (either directly or through a Federal home loan bank) to financial institutions or others.".

SEC. 943. PROHIBITION.

Section 1120 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420) is redesignated as section 1120(a) and is amended by adding at the end the following new subsection:

"(b)(1) No officer, director, partner, employee, or shareholder of, or agent or attorney for, a financial institution shall, directly or indirectly, notify any person named in a grand jury subpoena served on such institution in connection with an investigation relating to a possible—

"(A) crime against any financial institution or supervisory agency; or

"(B) conspiracy to commit such a crime,

about the existence or contents of such subpoena, or information that has been furnished to the grand jury in response to such subpoena.

"(2) Section 8 of the Federal Deposit Insurance Act and section 206(k)(2) of the Federal Credit Union Act shall apply to any violation of this subsection.".

SEC. 944. MISCELLANEOUS PROVISIONS.

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(1) by inserting after "with respect to a depository institution" the following: ", holding company, or any subsidiary of a depository institution or holding company,"; and

(2) by striking out "Council" and inserting in lieu thereof "Council and the Securities and Exchange Commission".

Subtitle E—Civil Penalties For Violations Involving Financial Institutions

12 USC 1833a.

SEC. 951. CIVIL PENALTIES.

(a) IN GENERAL.—Whoever violates any provision of law to which this section is made applicable by subsection (c) shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) MAXIMUM AMOUNT OF PENALTY.—

(1) GENERALLY.—The amount of the civil penalty shall not exceed $1,000,000.

(2) SPECIAL RULE FOR CONTINUING VIOLATIONS.—In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of $1,000,000 per day or $5,000,000.

(3) SPECIAL RULE FOR VIOLATIONS CREATING GAIN OR LOSS.—(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) VIOLATIONS TO WHICH PENALTY IS APPLICABLE.—This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code; or

(2) section 1341 or 1343 of title 18, United States Code, affecting a federally insured financial institution.

(d) ATTORNEY GENERAL TO BRING ACTION.—A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

(e) BURDEN OF PROOF.—In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by a preponderance of the evidence.

(f) ADMINISTRATIVE SUBPOENAS.—

(1) IN GENERAL.—For the purpose of conducting a civil investigation in contemplation of a civil proceeding under this section, the Attorney General may—

(A) administer oaths and affirmations;

(B) take evidence; and

(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

(2) PROCEDURES APPLICABLE.—The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

(3) LIMITATION.—In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

Subtitle F—Criminal Law and Procedure

SEC. 961. INCREASED CRIMINAL PENALTIES FOR CERTAIN FINANCIAL INSTITUTION OFFENSES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(1) in the 1st paragraph, by inserting "bank or savings and loan holding company," after "member bank,";

(2) in the 3rd paragraph—

(A) by inserting "or company" after "bank" each place it appears; and

(B) by striking the "—" at the end and inserting a semicolon;

(3) by adding after the 3rd paragraph the following:

"Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—". Fraud.

(4) by striking "$5,000" and inserting "$1,000,000"; and

(5) by striking "five" and inserting "20".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(1) by striking "$10,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended to read as follows:

"§ 1007. Federal Deposit Insurance Corporation Transactions

Fraud.

"Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(g) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION TRANSACTIONS.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by striking section 1008.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1008.

(h) LOAN AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS; CROP INSURANCE.—Section 1014 of title 18, United States Code, is amended—

(1) by striking "a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Saving and Loan Association";

(2) by striking "the Federal Saving and Loan Insurance Corporation, any bank the deposits of which are insured by";

(3) by striking "any member of";

(4) by inserting "the Resolution Trust Corporation" after "Federal Deposit Insurance Corporation,";

(5) by striking "$5,000" and inserting "$1,000,000"; and

(6) by striking "two" and inserting "20".

(i) FRAUDS AND SWINDLES.—Section 1341 of title 18, United States Code, is amended by adding at the end: "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(j) FRAUD BY WIRE, RADIO, OR TELEVISION.—Section 1343 of title 18, United States Code, is amended by adding at the end: "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(k) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended to read as follows:

"§ 1344. Bank fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud a financial institution; or

"(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(l) LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3293. Financial institution offenses

"No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate—

"(1) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, or 1344; or

"(2) section 1341 or 1343, if the offense affects a financial institution;

unless the indictment is returned or the information is filed within 10 years after the commission of the offense.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3293. Financial institution offenses.".

(3) EFFECT OF AMENDMENTS ON OFFENSES FOR WHICH THE CURRENT PERIOD OF LIMITATIONS HAD NOT RUN.—The amendments made by this subsection shall apply to an offense committed before the effective date of this section, if the statute of limitations applicable to that offense under this chapter had not run as of such date. 18 USC 3293 note.

(m) SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide for a substantial period of incarceration for a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, that substantially jeopardizes the safety and soundness of a federally insured financial institution. 28 USC 994 note.

SEC. 962. MISCELLANEOUS REVISIONS TO TITLE 18.

(a) SPECIFIC TERMINOLOGY CHANGES AND REPEAL.—

(1) SECTION 212.—Section 212 of title 18, United States Code, is amended—

(A) by striking "bank" the first place it appears and inserting "financial institution" in lieu thereof;

(B) by striking "land bank" and all that follows through "farm credit examiner" and inserting "Farm Credit Bank, bank for cooperatives, production credit association, Federal land bank association, agricultural credit association, Federal land credit association, service organization chartered under section 4.26 of the Farm Credit Act of 1971, the Farm Credit System Financial Assistance Corporation, the Federal Agricultural Mortgage Credit Corporation, the Federal Farm Credit Banks Funding Corporation, the National Consumer Cooperative Bank, or other institution subject to examination by a Farm Credit Administration examiner";

(C) in the 2nd undesignated paragraph, by striking "insured banks" and inserting "insured financial institutions" in lieu thereof; and

(D) in the 2nd undesignated paragraph, by striking "or by the Federal Deposit Insurance Corporation" and inserting in lieu thereof ", by the Federal Deposit Insurance Corpora-

tion, by the Office of Thrift Supervision, or by the Federal Housing Finance Board".

(2) SECTION 213.—Section 213 of title 18, United States Code, is amended by striking "banks the deposits of which" and inserting "financial institutions the deposits of which".

(3) REPEAL OF SECTION 1009.—Title 18, United States Code, is amended by striking out section 1009.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking out the item relating to section 1009.

(5) SECTION 1030(e)(4).—Section 1030(e)(4) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking "a bank" and inserting "an institution,";

(B) by striking subparagraph (C); and

(C) by redesignating subparagraphs (D), (E), (F), (G), and (H), as subparagraphs (C), (D), (E), (F), and (G), respectively.

(6) SECTION 1114.—Section 1114 of title 18, United States Code, is amended—

(A) by striking "the Federal Savings and Loan Insurance Corporation,"; and

(B) by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation".

(7) CHANGES RELATING TO NATIONAL CREDIT UNION ADMINISTRATION.—Sections 657, 1006, 1014, and 2113(h) of title 18, United States Code, are each amended by striking "Administrator of the National Credit Union Administration" and inserting "National Credit Union Administration Board".

(8) CHANGES RELATING TO THE FARM CREDIT SYSTEM.—

(A) Sections 657 and 1006 of title 18, United States Code, are each amended by striking "any land bank, intermediate credit bank," and inserting in lieu thereof "the Farm Credit System Insurance Corporation, a Farm Credit Bank, a".

(B) Section 1014 of title 18, United States Code, is amended—

(i) by striking "any Federal intermediate credit bank" and all that follows through "Title 12" and inserting in lieu thereof "any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof"; and

(ii) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Farm Credit System Insurance Corporation" in lieu thereof.

(b) CROSS REFERENCE CHANGE.—Section 1306 of title 18, United States Code, is amended by striking "section 20 of the Federal Deposit Insurance Act, or section 410 of the National Housing Act" and inserting "or section 20 of the Federal Deposit Insurance Act".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information

that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

"(2) Whoever, being an officer of a financial institution, directly or indirectly notifies—

"(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

"(B) any other person named in that subpoena;

about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than one year, or both.

"(3) As used in this subsection—

"(A) the term 'an officer of a financial institution' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

"(B) the term 'subpoena for records' means a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(ii) section 1341 or 1343 affecting a financial institution.".

(d) CONFORMING TERMINOLOGY IN BANK ROBBERY SECTION.—Section 2113 of title 18, United States Code, is amended—

(1) in subsection (f), by striking "any bank the deposits of which" and inserting "any institution the deposits of which";

(2) by adding before the period at the end of subsection (h) ", and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act"; and

(3) by striking subsection (g) and redesignating subsection (h) as subsection (g).

(e) CREATION OF GENERAL DEFINITION OF FINANCIAL INSTITUTION FOR TITLE 18.—

(1) IN GENERAL.—Subsection (b) of section 215 of title 18, United States Code, is transferred to the end of chapter 1 of such title.

(2) UPDATING AND TECHNICAL AMENDMENTS.—Such subsection (b), as so transferred, is amended—

(A) by inserting at the beginning the following section heading:

"§ 20. Financial institution defined"

(B) by striking "(b)";

(C) by striking "this section" and inserting "this title";

(D) so that paragraph (1) reads as follows:

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);";

(E) by striking paragraphs (2) and (8);

(F) so that paragraph (5) reads as follows:

"(5) a System institution of the Farm Credit System, as defined in section 5.35(3) of the Farm Credit Act of 1971;";

(G) so that paragraph (7) reads as follows:

"(7) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act.";

and

(H) by redesignating paragraphs (3), (4), (5), (6), and (7) (as amended by this paragraph) as paragraphs (2), (3), (4), (5), and (6), respectively.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"20. Financial institution defined.".

SEC. 963. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

Real property.

"(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title.".

(b) TRANSFER OF PROPERTY UNDER CIVIL FORFEITURE.—Section 981(e) of title 18, United States Code, is amended—

(1) in the matter before paragraph (1), by striking out "determine to—" and inserting in lieu thereof "determine—";

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) to any other Federal agency;

"(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

"(3) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is in receivership or liquidation), to any Federal financial institution regulatory agency—

"(A) to reimburse the agency for payments to claimants or creditors of the institution; and

"(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

"(4) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is not in receivership or liquidation), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding; or

"(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property."; and

(3) by adding at the end the following new sentence: "The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.".

(c) CRIMINAL FORFEITURE.—Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial

institution, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation."; and

(2) in subsection (b), by striking "(b) The provisions" and all that follows through "However, the" and inserting in lieu thereof the following:

"(b)(1) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed—

"(A) in the case of a forfeiture under subsection (a)(1) of this section, by subsections (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853); and

"(B) in the case of a forfeiture under subsection (a)(2) of this section, by subsections (b), (c), (e), and (g) through (p) of section 413 of such Act.

"(2) The".

SEC. 964. GRAND JURY SECRECY.

(a) IN GENERAL.—Chapter 215 of title 18, United States Code, is amended by striking section 3322 and all that follows through section 3328 and inserting the following:

"§ 3322. Disclosure of certain matters occurring before grand jury

"(a) A person who is privy to grand jury information concerning a banking law violation—

"(1) received in the course of duty as an attorney for the government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the government for use in enforcing section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 or for use in connection with civil forfeiture under section 981 of title 18, United States Code, of property described in section 981(a)(1)(C) of such title.

"(b)(1) Upon motion of an attorney for the government, a court may direct disclosure of matters occurring before a grand jury during an investigation of a banking law violation to identified personnel of a financial institution regulatory agency—

"(A) for use in relation to any matter within the jurisdiction of such regulatory agency; or

"(B) to assist an attorney for the government to whom matters have been disclosed under subsection (a).

"(2) A court may issue an order under paragraph (1) upon a finding of a substantial need.

"(c) A person to whom matter has been disclosed under this section shall not use such matter other than for the purpose for which such disclosure was authorized.

"(d) As used in this section—

"(1) the term 'banking law violation' means a violation of, or a conspiracy to violate—

"(A) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(B) section 1341 or 1343 affecting a financial institution;

"(2) the term 'attorney for the government' has the meaning given such term in the Federal Rules of Criminal Procedure; and

"(3) the term 'grand jury information' means matters occurring before a grand jury other than the deliberations of the grand jury or the vote of any grand juror.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 215 of title 18, United States Code, is amended by striking out the item relating to sections 3322 through 3328 and inserting the following:

"3322. Disclosure of certain matters occurring before grand jury.".

(c) FAIR CREDIT REPORTING ACT AMENDMENT.—Paragraph (1) of section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by inserting before the period at the end the following: ", or a subpoena issued in connection with proceedings before a Federal grand jury".

SEC. 965. CRIMINAL DIVISION FRAUD SECTION REGIONAL OFFICE.

Texas.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Department of Justice shall create a regional office of the Fraud Section of the Criminal Division in the Northern District of Texas, and maintain such office, by providing sufficient legal and other staff and office space, through fiscal year 1992.

Reports.

(b) STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall study and report to the Congress on whether additional regional offices of the Fraud Section of the Criminal Division should be established in other parts of the country.

SEC. 966. DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION.

(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation—

(1) $65,000,000 for each of fiscal years 1990 through 1992, for purposes of investigations and prosecutions involving financial institutions to which this Act and amendments made by this Act apply; and

(2) $10,000,000 for each of fiscal years 1990 through 1992, for purposes of civil proceedings involving financial institutions to which this Act and amendments made by this Act apply.

(b) SUPPLANTATION AND REALLOCATION PROHIBITED.—Sums authorized by this section—

(1) are in addition to any other sums authorized to be appropriated for such purposes;

(2) shall not be used to supplant sums otherwise available for such purposes; and

(3) shall not be reallocated for any other purpose.

SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE JUDICIARY.

There is authorized to be appropriated to the Federal courts system $10,000,000, to carry out such system's duties under this Act, for each of fiscal years 1990 through 1992.

SEC. 968. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

Section 1961(1) of title 18, United States Code, is amended by inserting "section 1344 (relating to financial institution fraud)," after "(relating to wire fraud),".

TITLE X—STUDIES OF FEDERAL DEPOSIT INSURANCE, BANKING SERVICES, AND THE SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES

12 USC 1811 note.

SEC. 1001. STUDY OF FEDERAL DEPOSIT INSURANCE SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the National Credit Union Administration Board, the Director of the Office of Management and Budget, and individuals from the private sector, shall conduct a study of the Federal deposit insurance system.

(b) TOPICS.—As part of the study required under subsection (a), the Secretary of the Treasury shall investigate, review, and evaluate the following:

(1) The feasibility of establishing a deposit insurance premium rate structure which would take into account, on an institution-by-institution basis—

(A) asset quality risk;

(B) interest rate risk;

(C) quality of management; and

(D) profitability and capital.

(2) Incentives for market discipline, including the advantages of—

(A) limiting each depositor to 1 insured account per institution;

(B) reducing the amount insured, or providing for a graduated decrease in the percentage of the amounts deposited which are insured as the amounts deposited increase;

(C) combining Federal with private insurance in order to bring the market discipline of private insurance to bear on the management of the depository institution; and

(D) ensuring, by law or regulation, that on the closing of any insured depository institution, the appropriate Federal insurance fund will honor only its explicit liabilities, and will never make good any losses on deposits not explicitly covered by Federal deposit insurance.

(3) The scope of deposit insurance coverage and its impact on the liability of the insurance fund.

(4) The feasibility of market value accounting, assessments on foreign deposits, limitations on brokered deposits, the addition of collateralized borrowings to the deposit insurance base, and multiple insured accounts.

(5) The impact on the deposit insurance funds of varying State and Federal bankruptcy exemptions and the feasibility of—

(A) uniform exemptions;

(B) limits on exemptions when necessary to repay obligations owed to federally insured depository institutions; and

(C) requiring borrowers from federally insured depository institutions to post a personal or corporate bond when obtaining a mortgage on real property.

(6) Policies to be followed with respect to the recapitalization or closure of insured depository institutions whose capital is depleted to, or near the point of, insolvency.

(7) The efficiency of housing subsidies through the Federal home loan bank system.

(8) Alternatives to Federal deposit insurance.

(9) The feasibility of developing and administering, through the appropriate Federal banking agency, an examination of the principles and techniques of risk management and the application of such principles and techniques to the management of insured institutions.

(10) The adequacy of capital of insured credit unions and the National Credit Union Share Insurance Fund, including whether the supervision of such fund should be separated from the other functions of the National Credit Union Administration.

(11) The feasibility of requiring, by statute or other means, that—

(A) independent auditors and accountants of a depository institution report the results of any audit of the institution to the relevant regulatory agency or agencies;

(B) a regulator share reports on a depository institution with the institution's independent auditors and accountants; and

(C) independent auditors and accountants participate in conferences between the regulator and the depository institution.

(12) The feasibility of adopting regulations which are the same as or similar to the provisions of England's Banking Act, 1987, ch. 22 (4 Halsbury's Statutes of England and Wales 527-650 (1987)), enacted on May 15, 1987, relating to the Bank of England's relationship with auditors and reporting accountants (including sections 8, 39, 41, 45, 46, 47, 82, 83, 85, and 94 of such Act).

(c) FINAL REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a final report containing a detailed statement of findings made, and conclusions drawn from, the study conducted under this section, including such recommendations for administrative and legislative action as the Secretary determines to be appropriate.

SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of institution, of—

(1) certain retail banking services provided by insured depository institutions; and

(2) the fees, if any, which are imposed by such institutions for providing such services.

(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—Each report prepared pursuant to paragraph (1) shall include—

(A) a description of any discernable trends in the cost and availability of retail banking services; and

(B) a description of the correlation, if any, between—

(i) any increase in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions;

(ii) any increase in the amount of the fees imposed by such institutions for providing retail banking services; and

(iii) any decrease in the availability of such services.

(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit— Reports.

(A) the first annual report required under paragraph (1) not later than June 1, 1990; and

(B) each subsequent annual report not later than June 1 of each calendar year beginning after 1990.

(c) SUNSET.—The requirements of subsection (a) shall terminate at the end of the 2-year period beginning on the later of—

(1) the 5-year period beginning on the date of the enactment of this Act; or

(2) the date (if any) during the 2-year period beginning at the end of such 5-year period, on which deposit insurance premiums are increased under section 7 of the Federal Deposit Insurance Act.

SEC. 1003. GENERAL ACCOUNTING OFFICE STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of deposit insurance issues raised by section 1001 emphasizing in particular—

(1) analysis of the policy considerations affecting the scope of deposit insurance coverage;

(2) evaluation of the risks associated with bank insurance contracts both as to the issuing institution and the deposit insurance funds; and

(3) the effect of proposed changes in the definition of "deposit" on—

(A) market discipline; and

(B) the ability of other participants in capital markets to raise funds.

(b) REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Congress the results of the study required by subsection (a).

SEC. 1004. STUDY REGARDING CAPITAL REQUIREMENTS FOR GOVERNMENT-SPONSORED ENTERPRISES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the risks undertaken by all government-sponsored enterprises and the appropriate level of capital for such enterprises consistent with—

(1) the financial soundness and stability of the government-sponsored enterprises;

(2) minimizing any potential financial exposure of the Federal Government; and

(3) minimizing any potential impact on borrowing of the Federal Government.

(b) CONSULTATION AND COOPERATION WITH OTHER AGENCIES.—The Comptroller General shall determine the structure and methodology of the study under this section in consultation with and with the cooperation of the Secretary of Agriculture and the Farm Credit Administration (with respect to the Farm Credit Banks, the Banks for Cooperatives, and the Federal Agricultural Mortgage Corporation), the Secretary of Education (with respect to the Student Loan Marketing Association and the College Construction Loan Corporation), the Secretary of Housing and Urban Development (with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation), and the government-sponsored enterprises.

(c) ACCESS TO RELEVANT INFORMATION.—Each government-sponsored enterprise shall provide full and prompt access to the Comptroller General to its books and records and shall promptly provide any other information requested by the Comptroller General. In conducting the study under this section, the Comptroller General may request information from, or the assistance of, any department or agency of the Federal Government that is authorized by law to supervise or approve any of the activities of any government-sponsored enterprise.

(d) SPECIFIC REQUIREMENTS.—The study shall examine and evaluate—

(1) the degrees and types of risks that are undertaken by the government-sponsored enterprises in the course of their operations, including credit risk, interest rate risk, management and operational risk, and business risk;

(2) the most appropriate method or methods for quantifying the types of risks undertaken by the government-sponsored enterprises;

(3) the actual level of risk that exists with respect to each government-sponsored enterprise, which shall take into account factors including the volume and type of securities outstanding that are issued or guaranteed by each government-sponsored enterprise and the extent of off-balance sheet expense of each government-sponsored enterprise;

(4) the appropriateness of applying a risk-based capital standard to each government-sponsored enterprise, taking into account the nature of the business each government-sponsored enterprise conducts;

(5) the costs and benefits to the public from application of a risk-based capital standard to the government-sponsored enterprises and the impact of such a standard on the capability of each government-sponsored enterprise to carry out its purpose under law;

(6) the impact, if any, of the operation of the government-sponsored enterprises on borrowing of the Federal Government;

(7) the overall level of capital appropriate for each of the government-sponsored enterprises; and

(8) the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of government-sponsored enterprises and the financial risk associated with such activities.

(e) REPORTS TO CONGRESS.—The Comptroller General shall submit to the Congress 2 reports regarding the study under this section. The first report shall be submitted to the Congress not later than 9

months after the date of the enactment of this Act and the second report shall be submitted to the Congress not later than 21 months after the date of the enactment of this Act. Each report shall set forth—

(1) the results of the study under this section;

(2) any recommendations of the Comptroller General with respect to appropriate capital standards for each government-sponsored enterprise;

(3) any recommendations of the Comptroller General with respect to information that, in the determination of the Comptroller General, should be provided to the Congress concerning—

(A) the extent and nature of the activities of the government-sponsored enterprises; and

(B) the nature of any periodic reports that the Comptroller General believes should be submitted to the Congress relating to the capital condition and operations of the government-sponsored enterprises; and

(4) any recommendations and opinions of the Secretary of Agriculture, the Secretary of Education, the Secretary of Housing and Urban Development, and the Secretary of the Treasury regarding the report, to the extent that the recommendations and views of such officers differ from the recommendations and opinions of the Comptroller General.

(f) DEFINITION.—For purposes of this section, the term "government-sponsored enterprises" means the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the College Construction Loan Insurance Corporation, the Student Loan Marketing Association.

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1101. PURPOSE. 12 USC 3331.

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

SEC. 1102. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1011. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE. 12 USC 3310.

"There shall be within the Council a subcommittee to be known as the 'Appraisal Subcommittee', which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies.

Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.".

12 USC 3332. **SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.**

(a) IN GENERAL.—The Appraisal Subcommittee shall—

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

Reports. (4) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(b) MONITORING AND REVIEWING FOUNDATION.—The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

12 USC 3333. **SEC. 1104. CHAIRPERSON OF APPRAISAL SUBCOMMITTEE; TERM OF CHAIRPERSON; MEETINGS.**

(a) CHAIRPERSON.—The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) MEETINGS; QUORUM; VOTING.—The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

12 USC 3334. **SEC. 1105. OFFICERS AND STAFF.**

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this title consistent with the appointment and compensation practices of the Council.

12 USC 3335. **SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.**

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

SEC. 1107. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS. 12 USC 3336.

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

SEC. 1108. STARTUP FUNDING. 12 USC 3337.

(a) IN GENERAL.—For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of $5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) ADDITIONAL FUNDS.—Except as provided in section 1122(b) of this title, funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS; AUTHORITY TO COLLECT AND TRANSMIT FEES. 12 USC 3338.

(a) IN GENERAL.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall—

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $25, such fees to be transmitted by the State agencies to the Council on an annual basis.

Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of $50 per annum, as necessary to carry out its functions under this title.

(b) USE OF AMOUNTS APPROPRIATED OR COLLECTED.—Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards.

12 USC 3339.

SEC. 1110. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(2) that such appraisals shall be written appraisals.

Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

12 USC 3340.

SEC. 1111. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

12 USC 3341.

SEC. 1112. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

12 USC 3342.

SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

(1) a State certified appraiser shall be required for all federally related transactions having a value of $1,000,000 or more; and

Housing.

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

12 USC 3343.

SEC. 1114. TRANSACTIONS REQUIRING THE SERVICES OF A STATE LICENSED APPRAISER.

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

SEC. 1115. TIME FOR PROPOSAL AND ADOPTION OF RULES. 12 USC 3344.

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS. 12 USC 3345.

(a) IN GENERAL.—For purposes of this title, the term "State certified real estate appraiser" means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) RESTRICTION.—No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) DEFINITION.—As used in this section, the term "State licensed appraiser" means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) ADDITIONAL QUALIFICATION CRITERIA.—Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

SEC. 1117. ESTABLISHMENT OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES. 12 USC 3346.

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

SEC. 1118. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES. 12 USC 3347.

(a) IN GENERAL.—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) DISAPPROVAL BY APPRAISAL SUBCOMMITTEE.—The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) REJECTION OF STATE CERTIFICATIONS AND LICENSES.—

(1) OPPORTUNITY TO BE HEARD OR CORRECT CONDITIONS.—Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) ADOPTION OF PROCEDURES.—The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) JUDICIAL REVIEW.—A decision of the subcommittee under this section shall be subject to judicial review.

12 USC 3348.

SEC. 1119. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.

(a) EFFECTIVE DATE FOR USE OF CERTIFIED OR LICENSED APPRAISERS ONLY.—

(1) IN GENERAL.—Not later than July 1, 1991, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) EXTENSION OF EFFECTIVE DATE.—Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) TEMPORARY WAIVER OF APPRAISER CERTIFICATION OR LICENSING REQUIREMENTS FOR STATE HAVING SCARCITY OF QUALIFIED APPRAISERS.—Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State leading to inordinate delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such inordinate delays have been eliminated.

(c) REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may

take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

SEC. 1120. VIOLATIONS IN OBTAINING AND PERFORMING APPRAISALS IN FEDERALLY RELATED TRANSACTIONS. 12 USC 3349.

(a) VIOLATIONS.—Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b), it shall be a violation of this section—

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1121(5) to which such association or corporation is a party.

(b) PENALTIES.—A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(c) PROCEEDING.—A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

SEC. 1121. DEFINITIONS. 12 USC 3350.

For purposes of this title:

(1) STATE APPRAISER CERTIFYING AND LICENSING AGENCY.—The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this title.

(2) APPRAISAL SUBCOMMITTEE; SUBCOMMITTEE.—The terms "Appraisal Subcommittee" and "subcommittee" mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) COUNCIL.—The term "Council" means the Federal Financial Institutions Examinations Council.

(4) FEDERALLY RELATED TRANSACTION.—The term "federally related transaction" means any real estate-related financial transaction which—

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) REAL ESTATE RELATED FINANCIAL TRANSACTION.—The term "real estate-related financial transaction" means any transaction involving—

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—The term "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) FINANCIAL INSTITUTION.—The term "financial institution" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(8) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the council.

(9) FOUNDATION.—The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) WRITTEN APPRAISAL.—The term "written appraisal" means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

12 USC 3351.

SEC. 1122. MISCELLANEOUS PROVISIONS.

(a) TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

(1) the property to be appraised is part of a federally related transaction,

(2) the appraiser's business is of a temporary nature, and

(3) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(b) SUPPLEMENTAL FUNDING.—Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under this title.

(c) PROHIBITION AGAINST DISCRIMINATION.—Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(d) OTHER REQUIREMENTS.—A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(e) STUDIES.—

(1) STUDY.—The Appraisal Subcommittee shall—

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) REPORT.—The Appraisal Subcommittee shall—

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after the date of the enactment of this title, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. GAO STUDY OF CREDIT UNION SYSTEM.

12 USC 1752a note.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive study of the Nation's credit union system. In conducting the study, the Comptroller General shall examine—

(1) credit unions' present and future role in the financial marketplace;

(2) the financial condition of credit unions;

(3) credit union capital;

(4) credit union regulation and supervision on both the Federal and State levels;

(5) whether the National Credit Union Administration examinations of credit unions are comparable in frequency and quality to supervisory examinations of insured banks and savings associations;

(6) the structure and financial condition of the National Credit Union Share Insurance Fund, including whether supervision of that Fund should be separated from the other functions of the National Credit Union Administration Board; and

(7) whether the common bond rules regarding credit union membership continue to serve their original purpose.

Comparative information with other types of depository institutions should be included.

(b) SUBMISSION.—Before the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a final report which shall contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Comptroller General deems advisable.

Reports.

SEC. 1202. OCC EMPLOYMENT PROVISION.

The 3rd undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking out the 1st sentence and inserting in lieu thereof the following:

"Notwithstanding any of the preceding provisions of this section to the contrary, the Comptroller of the Currency shall fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to maintain comparability with, other Federal banking agencies."; and

(2) by redesignating the remaining sentences of such undesignated paragraph as a new undesignated paragraph.

SEC. 1203. NCUA EMPLOYMENT PROVISION.

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(j) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Board shall fix the compensation and number of, and appoint and direct, employees of the Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(2) ADDITIONAL COMPENSATION AND BENEFITS.—The Board may provide additional compensation and benefits to employees of the Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.

"(3) FUNDING.—The salaries and expenses of the Board and employees of the Board shall be paid from fees and assessments (including income earned on insurance deposits) levied on insured credit unions under this Act.".

12 USC 1811 note.

SEC. 1204. EXPANSION OF USE OF UNDERUTILIZED MINORITY BANKS, WOMEN'S BANKS, AND LOW-INCOME CREDIT UNIONS.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the appropriate Federal banking agencies and the National Credit Union Administration Board on methods for increasing the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(b) REPORT TO CONGRESS.—The Secretary of the Treasury shall include, in the 1st annual report submitted to the Congress under section 331(a) of title 31, United States Code, after the completion of the consultation required by subsection (a), a report of the actions taken by the Secretary to increase the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(c) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) MINORITY BANK.—The term "minority bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(3) MINORITY.—The term "minority" means any Black American, Native American, Hispanic American, or Asian American.

(4) LOW-INCOME CREDIT UNION.—The term "low-income credit union" means any depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act which serves predominately low-income members (as defined by the National Credit Union Administration Board pursuant to section 101(5) of the Federal Credit Union Act).

(5) WOMEN'S BANK.—The term "women's bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the outstanding shares of which are held by 1 or more women;

(B) a majority of the directors on the board of directors of which are women; and

(C) a significant percentage of senior management positions of which are held by women.

SEC. 1205. CREDIT STANDARDS ADVISORY COMMITTEE.

12 USC 1818 note.

(a) ESTABLISHMENT.—There is hereby established the Credit Standards Advisory Committee (in this section referred to as the "Committee").

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Committee shall consist of 11 members, as follows:

(A) The Chairman of the Board of Governors of the Federal Reserve System, or the Chairman's designee.

(B) The Director of the Office of Thrift Supervision, or the Director's designee.

(C) The Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson's designee.

(D) The Comptroller of the Currency, or the Comptroller's designee.

(E) The Chairman of the National Credit Union Administration, or the Chairman's designee.

(F) 6 members of the public appointed by the President who are knowledgeable with the credit standards and lend-

ing practices of insured depository institutions, no more than 3 of whom shall be from the same political party.

(2) TERMS.—Each member appointed under paragraph (1)(F) shall serve for the life of the Committee.

(3) CHAIRPERSON.—The members shall elect a chairperson of the Committee who shall serve for a term of 1 year.

(4) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

(5) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee. All expenses of the Committee shall be shared on a pro rata basis, based upon each agency's total budget for the preceding year by the Federal financial regulators specified in subparagraphs (A) through (E) of paragraph (1).

(6) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the chairperson or a majority of the members.

(c) DUTIES OF THE COMMITTEE.—The Committee shall do the following:

(1) REVIEW CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Review the credit standards and lending practices of insured depository institutions and the supervision of such standards and practices by the Federal financial regulators.

(2) PREPARE RECOMMENDATIONS.—Prepare written comments and recommendations for the Federal financial regulators to ensure that insured depository institutions adhere to prudential credit standards and lending practices that are consistent for all insured depository institutions, to the maximum extent possible.

(3) MONITOR CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Monitor the credit standards and lending practices of insured depository institutions, and the supervision of such standards and practices by the Federal financial regulators, to ensure that insured depository institutions can meet the demands of a modern and globally competitive financial world.

(d) ANNUAL REPORT.—

(1) REQUIRED.—Not later than January 30 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Federal financial regulators.

(e) CONFLICT OF INTEREST GUIDELINES.—The Committee shall prescribe such guidelines as the Committee determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee of information relating to insured depository institutions and the Federal financial regulators.

SEC. 1206. COMPARABILITY IN COMPENSATION SCHEDULES.

12 USC 1833b.

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration Board, the Federal Housing Finance Board, the Oversight Board of the Resolution Trust Corporation, the Farm Credit Administration, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

SEC. 1207. STUDY BY SECRETARY OF THE TREASURY.

Reports.
12 USC 1811 note.

Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study and report to the Congress on—

(1) whether, and to what extent, the issuance of securities by the United States Government in small denominations benefits small investors, increases the participation of small investors in United States Government securities offerings, and promotes savings and thrift by the average United States taxpayer; and

(2) additional measures the Secretary recommends be taken to expand the availability of securities issued by the United States Government to benefit small investors, increase their participation in United States Government securities offerings, and to promote savings and thrift by the average United States taxpayer.

SEC. 1208. EXPENDITURE OF TAXPAYER MONEY ONLY FOR DEPOSIT INSURANCE PURPOSES.

12 USC 1811 note.

Funds appropriated to the Secretary of the Treasury pursuant to an authorization contained in this Act, and any amount authorized to be borrowed from the Secretary of the Treasury by any entity pursuant to this Act, may only be used as permitted by law, and may not otherwise be used for making any payment to any shareholder in, or creditor to, any insured depository institution.

SEC. 1209. AMENDMENT TO SECTION 5373 OF TITLE 5, UNITED STATES CODE.

Paragraph (2) of section 5373 of title 5, United States Code, is amended to read as follows:

"(2) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, section 2A(i) of the Home Owners' Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;".

SEC. 1210. FARM CREDIT ADMINISTRATION AND FARM CREDIT SYSTEM INSURANCE CORPORATION EMPLOYMENT PROVISION.

Section 5.11(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2245) is amended to read as follows:

"(2) OFFICERS AND EMPLOYEES.—

"(A) APPOINTMENT, COMPENSATION, AND BENEFITS.—The Chairman shall fix the compensation and number of, and appoint and direct, employees of the Administration. The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the

provisions of chapter 51, or subchapter III of chapter 53, of title 5, United States Code. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies. In setting and adjusting the total amount of compensation and benefits for employees of the Administration, the Chairman shall consult with, and seek to maintain comparability with, other Federal bank regulatory agencies.

"(B) OTHER FEDERAL BANK REGULATORY AGENCIES DEFINED.—For purposes of this subsection, the term 'other Federal bank regulatory agencies' has the same meaning given to the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act.

"(C) ETHICS IN GOVERNMENT.—The officers and employees of the agency shall be—

"(i) subject to the Ethics in Government Act of 1978; and

"(ii) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code.".

SEC. 1211. FAIR LENDING OVERSIGHT AND ENFORCEMENT.

(a) INFORMATION REGARDING INCOME LEVEL, RACIAL CHARACTERISTICS, AND GENDER OF MORTGAGORS AND MORTGAGE APPLICANTS.—Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon at the end;

(2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, and gender.".

(b) SUBMISSION TO AGENCIES.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following:

"(h) SUBMISSION TO AGENCIES.—The data required to be disclosed under subsection (b)(4) shall be submitted to the appropriate agency for each institution reporting under this title. Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Board, in cooperation with other appropriate regulators, including—

Regulations. Public information.

"(1) the Comptroller of the Currency for national banks;

"(2) the Director of the Office of Thrift Supervision for savings associations;

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

"(4) the National Credit Union Administration Board for credit unions; and

"(5) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in paragraphs (1) through (4),

shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public. These regulations shall also require the collection of data required to be disclosed under subsection (b)(4) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of the purchaser of such loans. Any reporting institution may submit in writing to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.".

(c) INFORMATION REGARDING LOAN APPLICATIONS.—

(1) GENERAL REPORTING REQUIREMENT.—Section 304(a)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(1)) is amended by striking out "originated, or" and inserting in lieu thereof "originated (or for which the institution received completed applications), or".

(2) CONFORMING AMENDMENTS.—

(A) The last sentence of section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting after "originated or purchased" the following: "(or for which completed applications were received)".

(B) Section 304(g)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(1)) is amended by inserting after "made" the following: "(or for which completed applications are received)".

(C) Section 304(g)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(2)) is amended by inserting after "approved" the following: "(or for which completed applications are received)".

(D) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2810) is amended by inserting after "approved" the following. "(or for which completed applications are received)".

(d) APPLICABILITY OF REPORTING REQUIREMENTS TO ALL MORTGAGE LENDERS.—Section 303(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802(2)) is amended to read as follows:

"(2) the term 'depository institution'—

"(A) means—

"(i) any bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act);

"(ii) any savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act); and

"(iii) any credit union,

which makes federally related mortgage loans as determined by the Board; and

"(B) includes any other lending institution (as defined in paragraph (4)) other than any institution described in subparagraph (A);".

(e) COMPLETED APPLICATION DEFINED.—Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) the term 'completed application' means an application in which the creditor has received the information that is regularly obtained in evaluating applications for the amount and type of credit requested;

"(4) the term 'other lending institutions' means any person engaged for profit in the business of mortgage lending;".

(f) APPLICABILITY OF HOME MORTGAGE DISCLOSURE ACT.—Section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting at the end the following new sentence: "For purposes of this paragraph, other lending institutions shall be deemed to have a home office or branch office within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas if such institutions have originated or purchased or received completed applications for at least 5 mortgage loans in such area in the preceding calendar year.".

(g) AMENDMENT TO ENFORCEMENT PROVISIONS.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) other lending institutions, by the Secretary of Housing and Urban Development.".

(h) REPORT ON UTILITY OF DATA.—Section 308 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2807) is amended to read as follows:

"SEC. 308. REPORT.

"The Board, in consultation with the Secretary of Housing and Urban Development, shall report annually to the Congress on the utility of the requirements of section 304(b)(4).".

(i) CONFORMING AMENDMENT TO FORMAT REQUIREMENT.—Section 304(e) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(e)) is amended by striking out "The Board" and inserting in lieu thereof "Subject to subsection (h), the Board".

(j) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by inserting after subsection (h) (as added by subsection (b) of this section) the following new subsection:

"(i) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—The requirements of subsection (b)(4) shall not apply with respect to any depository institution described in section 303(2)(A) which has total assets, as of the most recent full fiscal year of such institution, of $30,000,000 or less.".

12 USC 2802 note.

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to each calendar year beginning after December 31, 1989.

SEC. 1212. AMENDMENT TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) CONFORMING AMENDMENT TO DEFINITION OF REGULATED FINANCIAL INSTITUTION.—Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by striking out "insured bank as defined in section 3 of the Federal Deposit Insurance Act or

an insured institution as defined in section 401 of the National Housing Act" and inserting in lieu thereof "insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)".

(b) EXAMINATION IMPROVEMENT.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 807. WRITTEN EVALUATIONS. 12 USC 2906.

"(a) REQUIRED.—

"(1) IN GENERAL.—Upon the conclusion of each examination of an insured depository institution under section 804, the appropriate Federal depository institutions regulatory agency shall prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods. Disadvantaged persons.

"(2) PUBLIC AND CONFIDENTIAL SECTIONS.—Each written evaluation required under paragraph (1) shall have a public section and a confidential section.

"(b) PUBLIC SECTION OF REPORT.—

"(1) FINDINGS AND CONCLUSIONS.—The public section of the written evaluation shall—

"(A) state the appropriate Federal depository institutions regulatory agency's conclusions for each assessment factor identified in the regulations prescribed by the Federal depository institutions regulatory agencies to implement this Act;

"(B) discuss the facts supporting such conclusions; and

"(C) contain the institution's rating and a statement describing the basis for the rating.

"(2) ASSIGNED RATING.—The institution's rating referred to in paragraph (1)(C) shall be 1 of the following:

"(A) 'Outstanding record of meeting community credit needs'.

"(B) 'Satisfactory record of meeting community credit needs'.

"(C) 'Needs to improve record of meeting community credit needs'.

"(D) 'Substantial noncompliance in meeting community credit needs'.

Such ratings shall be disclosed to the public on and after July 1, 1990.

"(c) CONFIDENTIAL SECTION OF REPORT.—

"(1) PRIVACY OF NAMED INDIVIDUALS.—The confidential section of the written evaluation shall contain all references that identify any customer of the institution, any employee or officer of the institution, or any person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.

"(2) TOPICS NOT SUITABLE FOR DISCLOSURE.—The confidential section shall also contain any statements obtained or made by the appropriate Federal depository institutions regulatory agency in the course of an examination which, in the judgment of the agency, are too sensitive or speculative in nature to disclose to the institution or the public.

"(3) DISCLOSURE TO DEPOSITORY INSTITUTION.—The confidential section may be disclosed, in whole or part, to the institution, if

the appropriate Federal depository institutions regulatory agency determines that such disclosure will promote the objectives of this Act. However, disclosure under this paragraph shall not identify a person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.".

12 USC 1833c.

SEC. 1213. COMPTROLLER GENERAL AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF AGENCIES OR OTHER PERSONS PERFORMING FUNCTIONS UNDER BANKING LAWS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all agencies, corporations, organizations, and other persons of any description which perform any function or activity under this Act, or any other Act which is amended by this Act, shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) any function or activity of the Board of Governors of the Federal Reserve System or the Federal Reserve banks that is described in any paragraph of section 714(b) of title 31, United States Code; and

(B) any function or activity of the Federal National Mortgage Association, except as provided in section 309(j) of the Federal National Mortgage Association Charter Act.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under this Act shall be subject to audit by the Comptroller General with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this Act or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession or control of any agency or person which is subject to audit under this section which the Comptroller General deems relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The Comptroller General's right of access to information under this section shall be enforceable pursuant to section 716 of title 31, United States Code.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—The provisions of section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 1214. AMENDMENT RELATED TO THE HART-SCOTT-RODINO ACT.

Section 7A(c) of the Clayton Act (15 U.S.C. 18a(c)) is amended—

(1) in paragraph (7), by inserting "section 10(e) of the Home Owners' Loan Act," after "transactions which require agency approval under"; and

(2) in paragraph (8), by striking out ", section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a),".

SEC. 1215. CAPITAL AND ACCOUNTING STANDARDS. 12 USC 1833d.

Before the end of the 1-year period beginning on the date of the enactment of this Act, each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) shall establish uniform accounting standards to be used for determining the capital ratios of all federally insured depository institutions and for other regulatory purposes. Each such agency shall report annually to the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives any differences between the capital standard used by such agency and capital standards used by any other such agency. Each such report shall contain an explanation of the reasons for any discrepancy in such capital standards, and shall be published in the Federal Register.

Reports.

Federal Register, publication.

SEC. 1216. EQUAL OPPORTUNITY. 12 USC 1833e.

(a) IN GENERAL.—For purposes of this Act, Executive Order Numbered 11478, providing for equal employment opportunity in the Federal Government, shall apply to—

(1) the Comptroller of the Currency;

(2) the Director of the Office of Thrift Supervision;

(3) the Federal home loan banks;

(4) the Federal Deposit Insurance Corporation;

(5) the Oversight Board of the Resolution Trust Corporation; and

(6) the Resolution Trust Corporation.

(b) AFFIRMATIVE PROGRAM FOR EQUAL EMPLOYMENT OPPORTUNITY.—For purposes of this Act, sections 1 and 2 of Executive Order Numbered 11478, providing for the adoption and implementation of equal employment opportunity, shall apply to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) SOLICITATION OF CONTRACTS.—The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, the Oversight Board of the Resolution Trust Corporation, and the Resolution Trust Corporation shall each prescribe regulations to establish and oversee a minority outreach program within each such agency to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the agency with such persons or entities, public and private, in order to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

Regulations.
Minorities.
Women.

(d) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

(1) the Federal Deposit Insurance Corporation;
(2) the Comptroller of the Currency;
(3) the Director of the Office of Thrift Supervision;
(4) the Federal Housing Finance Board;
(5) the Oversight Board of the Resolution Trust Corporation;
(6) the Resolution Trust Corporation;
(7) the Federal Home Loan Mortgage Corporation; and
(8) the Federal National Mortgage Association,

shall each submit to the Congress a report containing a complete description of the actions taken by such agency pursuant to subsections (a) and (b) and such recommendations for administrative and legislative action as each such agency may determine to be appropriate to carry out the purposes of such subsection.

SEC. 1217. NCUA POWERS AS LIQUIDATING AGENT AND CONSERVATOR.

(a) IN GENERAL.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended—

(1) in subsection (a), by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2);
(2) by striking subsections (d) and (j);
(3) by redesignating subsections (b), (c), (e), (f), (g), (h), and (i) as subsections (j), (k), (l), (m), (n), (o), and (p), respectively;
(4) by inserting after subsection (a) the following new subsections:

"(b) POWERS AND DUTIES OF BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—

"(1) RULEMAKING AUTHORITY OF BOARD.—The Board may prescribe such regulations as the Board determines to be appropriate regarding the conduct of the Board as conservator or liquidating agent.

"(2) GENERAL POWERS.—

"(A) SUCCESSOR TO CREDIT UNION.—The Board shall, as conservator or liquidating agent, and by operation of law, succeed to—

"(i) all rights, titles, powers, and privileges of the credit union, and of any member, accountholder, officer, or director of such credit union with respect to the credit union and the assets of the credit union; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such credit union.

"(B) OPERATE THE CREDIT UNION.—The Board may, as conservator or liquidating agent—

"(i) take over the assets of and operate the credit union with all the powers of the members or shareholders, the directors, and the officers of the credit union and shall be authorized to conduct all business of the credit union;

"(ii) collect all obligations and money due the credit union;

"(iii) perform all functions of the credit union in the name of the credit union which is consistent with the appointment as conservator or liquidating agent; and

"(iv) preserve and conserve the assets and property of such credit union.

"(C) FUNCTIONS OF CREDIT UNION'S OFFICERS, DIRECTORS, AND SHAREHOLDERS.—The Board may, by regulation or order, provide for the exercise of any function by any member or stockholder, director, or officer of any credit union for which the Board has been appointed conservator or liquidating agent.

"(D) POWERS AS CONSERVATOR.—The Board may, as conservator, take such action as may be—

"(i) necessary to put the credit union in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the credit union and preserve and conserve the assets and property of the credit union.

"(E) ADDITIONAL POWERS AS LIQUIDATING AGENT.—The Board may, as liquidating agent, place the credit union in liquidation and proceed to realize upon the assets of the credit union, having due regard to the conditions of credit in the locality.

"(F) PAYMENT OF VALID OBLIGATIONS.—The Board, as conservator or liquidating agent, shall pay all valid obligations of the credit union in accordance with the prescriptions and limitations of this Act.

"(G) INCIDENTAL POWERS.—The Board may, as conservator or liquidating agent—

"(i) exercise all powers and authorities specifically granted to conservators or liquidating agents, respectively, under this Act and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this Act,

which the Board determines is in the best interests of the credit union, its account holders, or the Board.

"(3) AUTHORITY OF LIQUIDATING AGENT TO DETERMINE CLAIMS.—

"(A) IN GENERAL.—The Board may, as liquidating agent, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4).

"(B) NOTICE REQUIREMENTS.—The liquidating agent, in any case involving the liquidation or winding up of the affairs of a closed credit union, shall—

"(i) promptly publish a notice to the credit union's creditors to present their claims, together with proof, to the liquidating agent by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

"(C) MAILING REQUIRED.—The liquidating agent shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the credit union's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the credit union's books within 30 days after the discovery of such name and address.

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—The Board may prescribe regulations regarding the allowance or disallowance of claims by the liquidating agent and providing for administrative determination of claims and review of such determination.

"(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

"(A) DETERMINATION PERIOD.—

"(i) IN GENERAL.—Before the end of the 180-day period beginning on the date any claim against a credit union is filed with the Board as liquidating agent, the Board shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Board.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

"(I) on the credit union's books;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIMS.—The liquidating agent shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the liquidating agent from any claimant which is proved to the satisfaction of the liquidating agent.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

"(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the liquidating agent if—

"(I) the claimant did not receive notice of the appointment of the liquidating agent in time to file such claim before such date; and

"(II) such claim is filed in time to permit payment of such claim.

"(D) AUTHORITY TO DISALLOW CLAIMS.—The liquidating agent may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the liquidating agent.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the Board's determination pursuant to subparagraph (D) to disallow a claim.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the liquidating agent shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the liquidating agent shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the liquidating agent.

"(6) PROVISION FOR AGENCY REVIEW OR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—Before the end of the 60-day period beginning on the earlier of—

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a credit union for which the Board is liquidating agent; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with subparagraph (A) or (B) of paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the liquidating agent) in the district or territorial court of the United States for the district within which the credit union's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

"(B) STATUTE OF LIMITATIONS.—If any claimant fails to—

"(i) request administrative review of any claim in accordance with subparagraph (A) or (B) of paragraph (7); or

"(ii) file suit on such claim (or continue an action commenced before the appointment of the liquidating agent),

before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the liquidating agent) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(7) REVIEW OF CLAIMS.—

"(A) ADMINISTRATIVE HEARING.—If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Board agrees to such request, the Board shall consider the claim after opportunity for a hearing on the record. The final deter-

mination of the Board with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(B) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Board shall also establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Board shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Board may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Board, must agree to the use of the process in a particular case.

"(iv) CONSIDERATION OF INCENTIVES.—The Board shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Board shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any credit union for which the Board has been appointed liquidating agent; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Board shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); or

"(ii) notify the claimant of the determination, and if the claim is disallowed, a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the liquidating agent, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date the Board denies the claim.

"(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the

30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the liquidating agent), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the liquidating agent shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the liquidating agent shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the liquidating agent.

"(9) AGREEMENT AS BASIS OF CLAIM.—

"(A) REQUIREMENTS.—Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 208(a)(3) shall not form the basis of, or substantially comprise, a claim against the liquidating agent or the Board.

"(B) EXCEPTION TO CONTEMPORANEOUS EXECUTION REQUIREMENT.—Notwithstanding section 208(a)(3), any agreement between a Federal home loan bank or Federal Reserve bank and any insured credit union which was executed before the extension of credit by such bank to such credit union shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

"(10) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The liquidating agent may, in the liquidating agent's discretion and to the extent funds are available, pay creditor claims which are allowed by the liquidating agent, approved by the Board pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this Act.

"(B) PAYMENT OF DIVIDENDS ON CLAIMS.—The liquidating agent may, in the liquidating agent's sole discretion, pay dividends on proved claims at any time, and no liability shall attach to the Board (in such Board's corporate capacity or as liquidating agent), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(11) DISTRIBUTION OF ASSETS.—

"(A) SUBROGATED CLAIMS; CLAIMS OF UNINSURED ACCOUNTHOLDERS AND OTHER CREDITORS.—The liquidating agent shall—

"(i) retain for the account of the Board such portion of the amounts realized from any liquidation as the Board may be entitled to receive in connection with the subrogation of the claims of accountholders; and

"(ii) pay to accountholders and other creditors the net amounts available for distribution to them.

"(B) DISTRIBUTION TO SHAREHOLDERS OF AMOUNTS REMAINING AFTER PAYMENT OF ALL OTHER CLAIMS AND EXPENSES.—In any case in which funds remain after all accountholders, creditors, other claimants, and administrative expenses are paid, the liquidating agent shall distribute such funds to the credit union's shareholders or members together with the accounting report required under paragraph (14)(C).

"(12) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or liquidating agent for an insured credit union, the conservator or liquidating agent may request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and

"(ii) 90 days, in the case of any liquidating agent,

in any judicial action or proceeding to which such credit union is or becomes a party.

"(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or liquidating agent pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(13) ADDITIONAL RIGHTS AND DUTIES.—

"(A) PRIOR FINAL ADJUDICATION.—The Board shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Board as conservator or liquidating agent.

"(B) RIGHTS AND REMEDIES OF CONSERVATOR OR LIQUIDATING AGENT.—In the event of any appealable judgment, the Board as conservator or liquidating agent shall—

"(i) have all the rights and remedies available to the credit union (before the appointment of such conservator or liquidating agent) and the Board in its corporate capacity, including removal to Federal court and all appellate rights; and

"(ii) not be required to post any bond in order to pursue such remedies.

"(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the liquidating agent.

"(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any credit union for which the Board has been appointed liquidating agent, including assets which the Board may acquire from itself as such liquidating agent; or

"(ii) any claim relating to any act or omission of such credit union or the Board as liquidating agent.

"(14) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR LIQUIDATING AGENT.—

"(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to

any action brought by the Board as conservator or liquidating agent shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law.

"(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitation begins to run on any claim described in such subparagraph shall be the later of—

"(i) the date of the appointment of the Board as conservator or liquidating agent; or

"(ii) the date on which the cause of action accrues.

"(15) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Board as conservator or liquidating agent shall, consistent with the accounting and reporting practices and procedures established by the Board, maintain a full accounting of each conservatorship and liquidation or other disposition of credit unions in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or liquidation to which the Board was appointed, the Board shall make an annual accounting or report, as appropriate, available to the Comptroller General of the United States or, in the case of a State-chartered credit union, the authority which appointed the Board as conservator or liquidating agent.

"(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) shall be made available by the Board upon request to any shareholder of the credit union for which the Board was appointed conservator or liquidating agent or any other member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date the Board is appointed as liquidating agent of an insured credit union, the Board may destroy any records of such credit union which the Board, in the Board's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(c) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or liquidating agent may have, the conservator or liquidating agent for any insured credit union may disaffirm or repudiate any contract or lease—

"(A) to which such credit union is a party;

"(B) the performance of which the conservator or liquidating agent, in the conservator's or liquidating agent's discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or liquidating agent determines, in the conservator's or liquidating agent's discretion, will promote the orderly administration of the credit union's affairs.

"(2) TIMING OF REPUDIATION.—The conservator or liquidating agent appointed for any insured credit union shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or liquidating agent for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or liquidating agent; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' does not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (f) except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE CREDIT UNION IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or liquidating agent disaffirms or repudiates a lease under which the credit union was the lessee, the conservator or liquidating agent shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective,

unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

"(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (b).

"(5) LEASES UNDER WHICH THE CREDIT UNION IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or liquidating agent repudiates an unexpired written lease of real property of the credit union under which the credit union is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either— Real property.

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease;

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the credit union under the lease after such date; and

"(ii) the conservator or liquidating agent shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or liquidating agent repudiates any contract (which meets the requirements of each paragraph of section 208(a)(3)) for the sale of real property and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

"(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

"(i) the purchaser—

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the credit union under the contract; and

"(ii) the conservator or liquidating agent shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or liquidating agent to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the conservator or liquidating agent shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

"(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any insured credit union for which the Board has been appointed conservator or liquidating agent, any claim of such person for services performed before the appointment of the conservator or the liquidating agent shall be—

"(i) a claim to be paid in accordance with subsection (b); and

"(ii) deemed to have arisen as of the date the conservator or liquidating agent was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the conservator or liquidating agent accepts performance by the other person before the conservator or liquidating agent makes any determination to exercise the right of repudiation of such contract under this section—

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or liquidation.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or liquidating agent of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or liquidating agent to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraph (12) of this subsection and notwithstanding any other provision of this Act (other than subsection (b)(9) of this section and section 208(a)(3)), any other Federal law, or the

law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right to cause the termination or liquidation of any qualified financial contract with an insured credit union which arises upon the appointment of the Board as liquidating agent for such credit union at any time after such appointment;

"(ii) any right under any security arrangement relating to any contract or agreement described in clause (i); or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(12) shall apply in the case of any judicial action or proceeding brought against any liquidating agent referred to in subparagraph (A), or the credit union for which such liquidating agent was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such credit union.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), the Board, whether acting as such or as conservator or liquidating agent of an insured credit union, may not avoid any transfer of money or other property in connection with any qualified financial contract with an insured credit union.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with an insured credit union if the Board determines that the transferee had actual intent to hinder, delay, or defraud such credit union, the creditors of such credit union, or any conservator or liquidating agent appointed for such credit union.

"(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection—

"(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, forward contract, repurchase agreement, and any similar agreement that the Board determines by regulation to be a qualified financial contract for purposes of this paragraph.

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) has the meaning given to such term in section 741(7) of title 11, United States Code, except that the term 'security' (as used in such section) shall be deemed to include any mortgage loan, any mortgage-related security (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), and any interest in any mortgage loan or mortgage-related security; and

"(II) does not include any participation in a commercial mortgage loan unless the Board deter-

mines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(iii) FORWARD CONTRACT.—The term 'forward contract' has the meaning given to such term in section 101(24) of title 11, United States Code.

"(iv) REPURCHASE AGREEMENT.—The term 'repurchase agreement'—

"(I) has the meaning given to such term in section 101(41) of title 11, the United States Code, except that the items (as described in such section) which may be subject to any such agreement shall be deemed to include mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, any mortgage loan, and any interest in any mortgage loan; and

"(II) does not include any participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(v) TRANSFER.—The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (12) of this subsection, subsection (b)(9) of this section, and section 208(a)(3) of this Act), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a credit union in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security arrangement relating to such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(A) transfer to 1 credit union (other than a credit union in default)—

"(i) all qualified financial contracts between—

"(I) any person or any affiliate of such person; and

"(II) the credit union in default;

"(ii) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of

any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(iii) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(iv) all property securing any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to in subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or liquidating agent for an insured credit union in default makes any transfer of the assets and liabilities of such credit union; and

"(ii) the transfer includes any qualified financial contract,

the conservator or liquidating agent shall use such conservator's or liquidating agent's best efforts to notify any person who is a party to any such contract of such transfer by 12:00, noon (local time), on the business day following such transfer.

"(B) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any credit union except where such an interest is taken in contemplation of the credit union's insolvency or with the intent to hinder, delay, or defraud the credit union or the creditors of such credit union.

"(12) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—The conservator or liquidating agent may enforce any contract, other than a director's or officer's liability insurance contract or a credit union bond, entered into by the credit union notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or liquidating agent.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or liquidating agent to enforce or recover under a directors or officers liability insurance contract or credit union bond under other applicable law.

"(13) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

"(B) any security interest in the assets of the institution securing any such extension of credit.

"(d) PAYMENT OF INSURED DEPOSITS.—

"(1) IN GENERAL.—In case of the liquidation of any insured credit union, payment of the insured deposits in such credit union shall be made by the Board as soon as possible, subject to the provisions of subsection (e) of this section, either by cash or by making available to each accountholder a transferred deposit in a new credit union in the same community or in another insured credit union in an amount equal to the insured deposit of such accountholder.

"(2) PROOF OF CLAIMS.—The Board, in its discretion, may require proof of claims to be filed and may approve or reject such claims for insured deposits.

"(3) RESOLUTION OF DISPUTES.—

"(A) RESOLUTIONS IN ACCORDANCE TO BOARD REGULATIONS.—In the case of any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit, the Board may resolve such disputed claim in accordance with regulations prescribed by the Board establishing procedures for resolving such claims.

"(B) ADJUDICATION OF CLAIMS.—If the Board has not prescribed regulations establishing procedures for resolving disputed claims, the Board may require the final determination of a court of competent jurisdiction before paying any such claim.

Courts, U.S. District of Columbia.

"(4) REVIEW OF BOARD'S DETERMINATION.—Final determination made by the Board shall be reviewable in accordance with chapter 7 of title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the credit union is located.

"(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Board shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(e) SUBROGATION OF BOARD.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Board, upon the payment to any accountholder as provided in subsection (d) in connection with any insured credit union described in such subsection or the assumption of any deposit in such credit union by another insured credit union pursuant to this section, shall be subrogated to all rights of the accountholder against such credit union to the extent of such payment or assumption.

"(2) DIVIDENDS ON SUBROGATED AMOUNTS.—The subrogation of the Board under paragraph (1) with respect to any insured credit union shall include the right on the part of the Board to receive the same dividends from the proceeds of the assets of such credit union as would have been payable to the accountholder on a claim for the insured deposit, but such accountholder shall retain such claim for any uninsured or unassumed portion of the deposit.

"(f) VALUATION OF CLAIMS IN DEFAULT.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, this subsection shall govern the rights of the creditors (other than insured accountholders) of such credit union.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Board, acting as liquidating agent or in any other capacity, to any person having a claim against the liquidating agent or the insured credit union for which such liquidating agent is appointed shall equal the amount such claimant would have received if the Board had liquidated the assets and liabilities of such credit union without exercising the Board's authority under subsection (n) of this section.

"(3) ADDITIONAL PAYMENTS AUTHORIZED.—

"(A) IN GENERAL.—The Board may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. The Board shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category or claimants.

"(B) MANNER OF PAYMENT.—The Board may make the payments or credit the amounts specified in subparagraph (A) directly to the claimants or may make such payments or credit such amounts to an open insured credit union to induce the open insured credit union to accept liability for such claims.

"(g) LIMITATION ON COURT ACTION.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Board as a conservator or a liquidating agent.

"(h) LIABILITY OF DIRECTORS AND OFFICERS.—A director or officer of an insured credit union may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Board, which action is prosecuted wholly or partially for the benefit of the Board—

"(1) acting as conservator or liquidating agent of such insured credit union,

"(2) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such liquidating agent or conservator, or

"(3) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by an insured credit union or its affiliate in connection with assistance provided under section 208,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right, if any, of the Board under other applicable law.

"(i) DAMAGES.—In any proceeding related to any claim against an insured credit union's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured credit union, recoverable damages determined to result from the improvident or otherwise improper use or investment of any insured credit union's assets shall include principal losses and appropriate interest."; and

(5) in subsection (k) (as so redesignated by paragraph (3) of this subsection) by striking out the 1st and 5th sentences.

(b) LIMITATION ON COURT ACTION.—Section 206(h)(3) of the Federal Credit Union Act (12 U.S.C. 1786(h)(3)) is amended by adding at the end thereof the following sentence: "Except as provided in this paragraph, no court may take any action, except at the request of the Board by regulation or order, to restrain or affect the exercise of powers or functions of the Board as conservator.".

SEC. 1218. RISK MANAGEMENT TRAINING.

The Federal Financial Institutions Examination Council Act (12 U.S.C. 3301 et seq.) is amended by adding at the end the following new section:

12 USC 3309.

"**SEC. 1009A. RISK MANAGEMENT TRAINING.**

"(a) SEMINARS.—The Council shall develop and administer training seminars in risk management for its employees and the employees of insured financial institutions.

"(b) STUDY OF RISK MANAGEMENT TRAINING PROGRAM.—Not later than end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Council shall—

"(1) conduct a study on the feasibility and appropriateness of establishing a formalized risk management training program designed to lead to the certification of Risk Management Analysts; and

Reports.

"(2) report to the Congress the results of such study.".

SEC. 1219. CROSS-MARKETING RESTRICTIONS.

Section 4(f)(3)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended by striking clause (ii) and inserting the following:

"(ii) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8), or permit its products or services to be offered or marketed in connection with products and services of an affiliate, unless—

"(I) the Board, by regulation, has determined such products and services are permissible for bank holding companies to provide under subsection (c)(8);

"(II) such products and services are described in section 20 of the Banking Act of 1933 and the Board, by regulation, has permitted bank holding companies to offer or market such products or services, but has prohibited bank holding companies and their affiliates from principally engaging in the offering or marketing of such products or services; or

"(III) such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date;".

SEC. 1220. REPORT ON LOAN DISCRIMINATION.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Director of the Office of Thrift Supervision, shall each transmit to the Congress a report containing—

(1) findings, based on a review of currently available loan acceptance and rejection statistics, on the extent of discriminatory lending practices by mortgage lenders subject to regulation or supervision by such agency; and

(2) recommendations for appropriate measures to assure nondiscriminatory lending practices.

(b) SCOPE OF HUD REPORT.—The Secretary of Housing and Urban Development may exclude from the report under subsection (a) any data pertaining to mortgage lenders which are approved mortgagees under title II of the National Housing Act if data pertaining to such lenders is or will be included in the other reports under such subsection.

SEC. 1221. SEPARABILITY OF PROVISIONS.

12 USC 1811 note.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

SEC. 1301. DEFINITIONS.

12 USC 1441a-1.

For purposes of this title:

(1) STATE HOUSING FINANCE AUTHORITY.—The term "State housing finance authority" means any public agency, authority, or corporation which—

(A) serves as an instrumentality of any State or any political subdivision of any State; and

(B) functions as a source of residential mortgage loan financing in that State.

(2) NONPROFIT ENTITY.—The term "nonprofit entity" means any not-for-profit corporation chartered under State law that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986 and no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual (including any nonprofit entity established by the corporation established under title IX of the Housing and Urban Development Act of 1968).

(3) MORTGAGE-RELATED ASSETS.—The term "mortgage-related assets" means—

(A) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and

(B) real property improved with 1- to 4-family or multifamily residential dwellings,

best copy available

which are located within the jurisdiction of the applicable State housing finance authority or within the geographical area served by the nonprofit entity.

(4) NET INCOME.—The term "net income" means income after deduction of all associated expenses calculated in accordance with generally accepted accounting principles.

12 USC 1441a-2.

SEC. 1302. AUTHORIZATION FOR STATE HOUSING FINANCE AGENCIES AND NONPROFIT ENTITIES TO PURCHASE MORTGAGE-RELATED ASSETS.

(a) AUTHORIZATION.—Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

Disadvantaged persons.

(b) INVESTMENT REQUIREMENT.—Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

TITLE XIV—TAX PROVISIONS

SEC. 1401. EARLY TERMINATION OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—

(1) REORGANIZATIONS.—Subparagraph (D) of section 368(a)(3) of the Internal Revenue Code of 1986 (as amended by section 4012 of the Technical and Miscellaneous Revenue Act of 1988) is amended to read as follows:

26 USC 368.

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(2) NET OPERATING LOSS RULES.—The last sentence of section 382(l)(5)(F) of such Code (as so amended) is amended by striking "after December 31, 1989" and inserting "on or after May 10, 1989".

26 USC 382.

(3) FINANCIAL ASSISTANCE.—

(A) Section 597 of such Code (as so amended) is amended to read as follows:

26 USC 597.

"SEC. 597. TREATMENT OF TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

"(a) GENERAL RULE.—The treatment for purposes of this chapter of any transaction in which Federal financial assistance is provided with respect to a bank or domestic building and loan association shall be determined under regulations prescribed by the Secretary.

"(b) PRINCIPLES USED IN PRESCRIBING REGULATIONS.—

"(1) TREATMENT OF TAXABLE ASSET ACQUISITIONS.—In the case of any acquisition of assets to which section 381(a) does not apply, the regulations prescribed under subsection (a) shall—

"(A) provide that Federal financial assistance shall be properly taken into account by the institution from which the assets were acquired, and

"(B) provide the proper method of allocating basis among the assets so acquired (including rights to receive Federal financial assistance).

"(2) OTHER TRANSACTIONS.—In the case of any transaction not described in paragraph (1), the regulations prescribed under subsection (a) shall provide for the proper treatment of Federal financial assistance and appropriate adjustments to basis or other tax attributes to reflect such treatment.

"(3) DENIAL OF DOUBLE BENEFIT.—No regulations prescribed under this section shall permit the utilization of any deduction (or other tax benefit) if such amount was in effect reimbursed by nontaxable Federal financial assistance.

"(c) FEDERAL FINANCIAL ASSISTANCE.—The purposes of this section, the term 'Federal financial assistance' means—

"(1) any money or other property provided with respect to a domestic building and loan association by the Federal Savings and Loan Insurance Corporation or the Resolution Trust Corporation pursuant to section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any other similar provision of law), and

"(2) any money or other property provided with respect to a bank or domestic building and loan association by the Federal Deposit Insurance Corporation pursuant to section 11(f) or 13(c) of the Federal Deposit Insurance Act (or under any other similar provision of law),

regardless of whether any note or other instrument is issued in exchange therefor.

"(d) DOMESTIC BUILDING AND LOAN ASSOCIATION.—For purposes of this section, the term 'domestic building and loan association' has the meaning given such term by section 7701(a)(19) without regard to subparagraph (C) thereof."

(B) Subparagraph (B) of section 904(c)(2) of the Tax Reform Act of 1986 is hereby repealed. 26 USC 597 note.

(C) The table of sections for part II of subchapter H of chapter 1 of such Code is amended by striking the item relating to section 597 and inserting the following:

"Sec. 597. Treatment of transactions in which Federal financial assistance provided."

(b) TECHNICAL AMENDMENTS.—

(1) Section 904 of the Tax Reform Act of 1986 (other than subsection (c)(2)(B) thereof) is hereby repealed and the Internal Revenue Code of 1986 shall be applied as if the amendments made by such section had not been enacted. 26 USC 597 note.

(2) The last sentence of paragraph (3) of section 4012(c) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as follows: 26 USC 597 note.

"In the case of any bank or any institution treated as a domestic building and loan association for purposes of section 597 of the 1986 Code by reason of the amendment made by subsection (b)(2)(B), the amendments made by this subsection shall also

apply to any transfer before January 1, 1989, to which the amendments made by subsection (b)(2) apply."

26 USC 593. (3) The last sentence of section 593(e)(1) of such Code is amended to read as follows: "This paragraph shall not apply to any transaction to which section 381 applies, or to any distribution to the Federal Savings and Loan Insurance Corporation (or any successor thereof) or the Federal Deposit Insurance Corporation in redemption of an interest in an association, if such interest was originally received by any such entity in exchange for assistance provided under a provision of law referred to in section 597(c).".

(c) EFFECTIVE DATES.—

26 USC 368 note. (1) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply to acquisitions on or after May 10, 1989.

26 USC 382 note. (2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to transactions on or after May 10, 1989.

26 USC 597 note. (3) SUBSECTION (a)(3).—

(A) IN GENERAL.—The amendments made by subsection (a)(3) shall apply to any amount received or accrued by the financial institution on or after May 10, 1989, except that such amendments shall not apply to transfers on or after such date pursuant to an acquisition to which the amendment made by subsection (a)(1) does not apply.

(B) INTERIM RULE.—In the case of any payment pursuant to a transaction on or after May 10, 1989, and before the date on which the Secretary of the Treasury (or his delegate) takes action in exercise of his regulatory authority under section 597 of the Internal Revenue Code of 1986 (as amended by subsection (a)(3)), the taxpayer may rely on the legislative history for the amendments made by subsection (a)(3) in determining the proper treatment of such payment.

26 USC 597 note. (4) SUBSECTION (b)(1).—The provisions of subsection (b)(1) shall take effect on the date of the enactment of the Tax Reform Act of 1986.

26 USC 597 note. (5) SUBSECTION (b)(2).—The amendment made by subsection (b)(2) shall take effect on the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988.

26 USC 593 note. (6) SUBSECTION (b)(3).—The amendment made by subsection (b)(3) shall take effect on the date of the enactment of this Act.

26 USC 597 note. (7) CLARIFICATION OF PRIOR LAW.—Any reference to the Federal Savings and Loan Insurance Corporation in section 597 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) shall be treated as including a reference to the Resolution Trust Corporation and the FSLIC Resolution Fund.

SEC. 1402. TAX EXEMPTION FOR RESOLUTION TRUST CORPORATION AND RESOLUTION FUNDING CORPORATION.

(a) GENERAL RULE.—Subsection (l) of section 501 of the Internal Revenue Code of 1986 (relating to government corporations exempt under subsection (c)(1)) is amended to read as follows:

26 USC 501.

"(l) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—For purposes of subsection (c)(1), the following organizations are described in this subsection:

"(1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).

"(2) The Resolution Trust Corporation established under section 21A of the Federal Home Loan Bank Act.

"(3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 501 note.

SEC. 1403. ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED. 26 USC 597 note.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall submit to the Senate and to the Committee on Ways and Means of the House of Representatives annual reports on—

(1)(A) the transactions which occur during the year for which the report is made and with respect to which Federal financial assistance is provided;

(B) the aggregate amount of Federal financial assistance provided with respect to such transactions; and

(C) any tax benefits available by reason of such transactions; and

(2) the aggregate amount of Federal financial assistance provided during such year, and the aggregate tax benefits utilized during such year, which are attributable to such transactions in prior years.

(b) DEFINITION.—For purposes of this section, the term "Federal financial assistance" means any assistance to which section 597 of the Internal Revenue Code of 1986 applies.

SEC. 1404. STUDIES OF RELATIONSHIP BETWEEN PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES. 12 USC 1811 note.

(a) IN GENERAL.—In order to better manage the bonded indebtedness of the United States, the Secretary shall conduct 2 annual studies to assess the financial safety and soundness of the activities of all Government-sponsored enterprises and the impact of their operations on Federal borrowing.

(b) ACCESS TO RELEVANT INFORMATION.— Records.

(1) INFORMATION FROM GSE'S.—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(2) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(3) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A).

(C) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(i) by virtue of his employment or official position, he has possession of or access to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A); and

(ii) he discloses the material in any manner other than—

(I) to an officer or employee of the Department of the Treasury; or

(II) pursuant to the exceptions set forth in such section 1906.

(c) ASSESSMENT OF RISK.—In assessing the financial safety and soundness of the activities of Government-sponsored enterprises, and the impact of their activities on Federal borrowing, the Secretary shall quantify the risks associated with each Government-sponsored enterprise. In quantifying such risks, the Secretary shall determine the volume and type of securities outstanding which are issued or guaranteed by each Government-sponsored enterprise, the capitalization of each Government-sponsored enterprise, and the degree of risk involved in the operations of each Government-sponsored enterprise due to factors such as credit risk, interest rate risk, management and operations risk, and business risk. The Secretary shall also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of Government-sponsored enterprises and the financial risk associated with such activities.

Reports.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress—

(1) by May 15, 1990, a report setting forth the results of the 1st annual study conducted under this section; and

(2) by May 15, 1991, a report setting forth the results of the 2nd annual study conducted under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT-SPONSORED ENTERPRISE.—The term "Government-sponsored enterprise" means—

(A) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College

Construction Loan Insurance Association, and any of their affiliated or member institutions; and

(B) any other Government-sponsored enterprise, as designated by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

Approved August 9, 1989.

LEGISLATIVE HISTORY—H.R. 1278 (S. 774):

HOUSE REPORTS: No. 101-54, Pt. 1 (Comm. on Banking, Finance and Urban Affairs), Pt. 2 (Comm. on Ways and Means), Pt. 3 (Comm. on Banking, Finance and Urban Affairs), Pt. 4 (Comm. on Rules), Pt. 5 (Comm. on the Judiciary), Pt. 6 (Comm. on Government Operations), and Pt. 7 (Comm. on Banking, Finance and Urban Affairs); and Nos. 101-209 and 101-222 both from (Comm. of Conference).

SENATE REPORTS: No. 101-19 accompanying S. 774 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Apr. 17-19, S. 774 considered and passed Senate.

June 14, 15, H.R. 1278 considered and passed House.

June 21, considered and passed Senate, amended.

Aug. 3, House agreed to conference report. Senate ruled conference report out of order.

Aug. 4, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):

Aug. 9, Presidential remarks.

Public Law 101-74
101st Congress

Joint Resolution

Aug. 9, 1989
[H.J. Res. 281]

To approve the designation of the Cordell Bank National Marine Sanctuary, to disapprove a term of that designation, to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of that sanctuary, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the national marine sanctuary designation entitled "Designation Document for Cordell Bank National Marine Sanctuary" that was submitted to Congress by the Secretary of Commerce on May 24, 1989, but disapproves the following terms of such designation: Designation of hydrocarbon (oil and gas) activities as activities which may be regulated within the Sanctuary and adjacent waters under article 4, section 1.c. of the final designation document for the Sanctuary.

SEC. 2. PROHIBITION OF EXPLORATION, DEVELOPMENT, OR PRODUCTION OF OIL, NATURAL GAS, OR MINERALS IN SANCTUARY.

(a) PROHIBITION.—Notwithstanding any other provision of law, the exploration for, or the development or production of, oil, gas, or minerals in any area of the Cordell Bank National Marine Sanctuary established by the designation referred to in the first section is prohibited.

(b) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date on which this joint resolution becomes law, the Secretary of Commerce shall revise the regulations issued by the Secretary governing prohibited activities in the Cordell Bank National Marine Sanctuary (15 CFR 942.6) to implement the prohibition established by subsection (a).

Approved August 9, 1989.

LEGISLATIVE HISTORY—H.J. Res. 281:

HOUSE REPORTS: No. 101-110, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
July 24, considered and passed Senate, amended.
July 25, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Aug. 9, Presidential statement.

Public Law 101-75
101st Congress

Joint Resolution

Designating August 8, 1989, as "National Neighborhood Crime Watch Day".

Aug. 10, 1989
[S.J. Res. 136]

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock post-meridian on August 8, 1989, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 8, 1989, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved August 10, 1989.

LEGISLATIVE HISTORY—S.J. Res. 136:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

Public Law 101-76
101st Congress

An Act

Aug. 11, 1989
[H.R. 2705]

Relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Government-wide indemnity benefit plan participates in that year.

5 USC 8906 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) in the administration of chapter 89 of title 5, United States Code, for contract year 1990 or 1991, in order to compute the average subscription charges under section 8906(a) of such title for such contract years, the subscription charges in effect for the indemnity benefit plan on the beginning date of each such contract year shall be deemed to be the subscription charges which—

(A) were in effect for such plan on the beginning date of the preceding contract year as adjusted under paragraph (2); or

(B) if subparagraph (A) does not apply, were deemed under this Act to have been in effect for such plan with respect to the preceding contract year as adjusted under paragraph (2).

(2) The subscription charges under paragraph (1) shall be increased or decreased (as appropriate) by the average percentage by which the respective subscription charges taken into account under paragraphs (1), (3), and (4) of such section 8906(a) for that contract year increased or decreased from the subscription charges taken into account under such paragraphs (1), (3), and (4) for the preceding contract year.

(b) Separate percentages shall be computed under subsection (a)(2) with respect to enrollments for self alone and enrollments for self and family, respectively.

(c) The provisions of this Act shall not apply to contract year 1991, if comprehensive reform legislation is enacted to amend section 8906 of title 5, United States Code, and such amendment is required to be implemented by the commencement of negotiations pertaining to rates and benefits for such contract year.

(d) Any reference in this Act to a "contract year" shall be considered to be a reference to a contract year under chapter 89 of title 5, United States Code.

(e) No later than 180 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall

transmit recommendations to the Congress for comprehensive reform of the Federal Employee Health Benefits Program.

Approved August 11, 1989.

LEGISLATIVE HISTORY—H.R. 2705 (S. 1276):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
July 31, considered and passed Senate, amended.
Aug. 1, House concurred in Senate amendment.

Public Law 101-77
101st Congress

Joint Resolution

Aug. 11, 1989
[H.J. Res. 363]

To designate 1989 as "United States Customs Service 200th Anniversary Year".

Whereas July 31, 1989, marks the 200th anniversary of the signing by President George Washington of legislation establishing the United States Customs Service;

Whereas the controls on imports and exports and on shipping and trade, deemed essential by the founders of the Republic would have been impossible without implementation by an honest, resourceful, and efficient Customs Service;

Whereas the Collector of Customs, the Customs House, and the Customs officer have stood for 200 years as the symbols of Federal authority in the ports and on the waterfronts;

Whereas after 200 years the ever more complex demands of our economy and our civilization require the Customs Service of the Department of the Treasury to remain alert and ready to perform on short notice a widening variety of tasks;

Whereas the men and women of the United States Customs Service have been the first line of defense against the entry into the United States of illicit drugs and other contraband goods;

Whereas the United States Customs Service has protected the economic well-being of the Nation against predatory trade practices and violation of intellectual property rights;

Whereas the United States Customs Service is one of the oldest of the Federal agencies, having been created by the 5th Act of the 1st Congress; and

Whereas the United States Customs Service was the source of the creation of many Federal agencies, is the principal United States border agency, and enforces all laws of the United States at our border: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1989 is designated as "United States Customs Service 200th Anniversary Year", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

Approved August 11, 1989.

LEGISLATIVE HISTORY—H.J. Res. 363:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 19, considered and passed House.
July 27, considered and passed Senate.

Public Law 101-78
101st Congress

Joint Resolution

To designate the month of November 1989 and 1990 as "National Hospice Month".

Aug. 11, 1989
[S.J. Res. 78]

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical, emotional, and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and community volunteers trained in the hospice concept of care;

Whereas hospice is becoming a full partner in the Nation's health care system;

Whereas the enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more Americans to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1989 and 1990 is designated as "National Hospice Month". The President is requested to issue a proclamation calling upon all government agencies, the health care community, appropriate private organizations, and people of the United States to observe each of those months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

Approved August 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 78:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

Public Law 101-79
101st Congress

Joint Resolution

Aug. 11, 1989
[S.J. Res. 126]

Commemorating the bicentennial of the United States Coast Guard.

Whereas August 4, 1990, marks the 200th anniversary of the Act of August 4, 1790, by which Congress authorized 10 revenue cutters requested by Alexander Hamilton for the purpose of interdicting violators of the customs laws;

Whereas the seagoing service which began with those first 10 cutters lives on in the form of the service now known as the "United States Coast Guard";

Whereas the Coast Guard has served this Nation well, in war and peace, in both the defense of this Nation against foreign enemies and against the use of the sea for crimes against the Nation;

Whereas the Coast Guard has also served this Nation well in protecting against the perils of the sea, by rescuing those in danger at sea, maintaining aids to navigation, and regulating the safety of vessels;

Whereas the Coast Guard, despite its small size, has served the Nation in these and in many other areas with efficiency and gallantry;

Whereas the Coast Guard's present-day battle against the importation of drugs by sea reminds us of the origins of the Coast Guard with those first 10 cutters 200 years ago, and of the other essential services performed by the Coast Guard; and

Whereas the bicentennial of the Coast Guard will be commemorated during the period beginning August 4, 1989, and ending August 4, 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States hereby gives recognition to the two centuries of service by the United States Coast Guard and authorizes and requests the President to issue a proclamation calling upon the people of the Nation to share in the pride and satisfaction enjoyed by the dedicated and committed members of the United States Coast Guard during the commemoration of this bicentennial.

Approved August 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 126:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 101-80
101st Congress

Joint Resolution

Designating Labor Day weekend, September 2 through 4, 1989, as "National Drive for Life Weekend".

Aug. 11, 1989
[S.J. Res. 127]

Whereas drunk driving is the most frequently committed crime in the United States, with arrests for driving while intoxicated totaling more than three times the number of arrests for all violent crimes combined;

Whereas one individual in the United States was killed every twenty-two minutes in a drunk-driving-related crash in 1988, an average of sixty-five individuals each day;

Whereas more than twenty-three thousand individuals were killed in the United States in drunk-driving-related crashes in 1988;

Whereas two out of every five individuals in the United States will be involved in a drunk-driving-related crash at some point in their lives;

Whereas the estimates of the economic costs of drunk driving in the United States are as high as $24 billion;

Whereas Drive for Life is a public awareness campaign which asks all Americans to pledge to be responsible by driving sober on the Drive for Life Day and thereby demonstrate a commitment to reduce significantly the tragedies of drunk driving, and which serves to educate the public about the dangers of drunk driving;

Whereas Americans are also asked to turn on their headlights while driving on Drive for Life Day as a remembrance of those killed by drunk driving;

Whereas on the second annual National Drive for Life Day, the toll of individuals killed in drunk-driving-related crashes in the United States was 28.6 per centum lower than the number of deaths due to drunk-driving-related crashes on Labor Day weekend Saturday, in 1987, reflecting the success of this campaign;

Whereas the second annual National Drive for Life campaign featured endorsements from all fifty Governors, more than two hundred and seventy-five mayors, and all fifty State police departments;

Whereas the third annual National Drive for Life Day will occur on September 2, 1989, the Saturday of the Labor Day weekend, when drunk-driving-related crashes are traditionally at their peak: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Labor Day week-

end beginning on September 2, 1989, is designated as "National Drive for Life Weekend". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that weekend with a pledge to be responsible by driving sober and encouraging others to do the same.

Approved August 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 127:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
Aug. 4, considered and passed House.

Public Law 101-81
101st Congress

An Act

To amend the Agricultural Act of 1949 for the 1990 crops to allow the planting of alternative crops on permitted acreage and to amend the provisions regarding the designation of farm acreage base as acreage base established for oats.

Aug. 14, 1989
[H.R. 2799]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PLANTING OF ALTERNATIVE CROPS ON PERMITTED ACREAGE.

Effective only for the 1990 crops, section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) is amended by—

(1) striking "and" at the end of subparagraph (D);

(2) redesignating subparagraph (E) as subparagraph (F); and

(3) inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of the 1990 crop year, acreage in an amount not to exceed 20 percent of the permitted acreage for a program crop, if—

"(i) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, or meadowfoam;

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

SEC. 2. OATS.

Effective only for the 1990 crops, section 503(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1463(c)(1)) is amended by striking "if the acreage limitation percentage established for a crop of feed grains under section 105C(f) is 12.5 percent or less,".

Approved August 14, 1989.

LEGISLATIVE HISTORY—H.R. 2799:

HOUSE REPORTS: No. 101-147 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 101-82
101st Congress

An Act

Aug. 14, 1989
[H.R. 2467]

To provide disaster assistance to agricultural producers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Disaster Assistance Act of 1989.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) SHORT TITLE.—This Act may be cited as the "Disaster Assistance Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows.

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY CROP LOSS ASSISTANCE

SUBTITLE A—ANNUAL CROPS

Sec. 101. Payments to program participants for target price commodities.
Sec. 102. Payments to program nonparticipants for target price commodities.
Sec. 103. Peanuts, sugar, and tobacco.
Sec. 104. Soybeans and nonprogram crops.
Sec. 105. Crop quality reduction disaster payments.
Sec. 106. Effect of Federal crop insurance payments.
Sec. 107. Crop insurance coverage for the 1990 crops.
Sec. 108. Crops harvested for forage uses.
Sec. 109. Payment limitations.
Sec. 110. No double payments on replanted acreage.
Sec. 111. Substitution of crop insurance program yields.
Sec. 112. Definitions.

SUBTITLE B—ORCHARDS

Sec. 121. Eligibility.
Sec. 122. Assistance.
Sec. 123. Limitation on assistance.
Sec. 124. Definition.
Sec. 125. Duplicative payments.
Sec. 126. Sense of Congress on crop insurance for orchard crops.

SUBTITLE C—FOREST CROPS

Sec. 131. Eligibility.
Sec. 132. Assistance.
Sec. 133. Limitation on assistance.
Sec. 134. Definition.
Sec. 135. Duplicative payments.

SUBTITLE D—ADDITIONAL ASSISTANCE

Sec. 141. New conservation measures.
Sec. 142. Assistance for ponds.

SUBTITLE E—ADMINISTRATIVE PROVISIONS

Sec. 151. Ineligibility.
Sec. 152. Timing and manner of assistance.
Sec. 153. Commodity Credit Corporation.
Sec. 154. Limitation on outlays.
Sec. 155. Regulations.

TITLE II—EMERGENCY LIVESTOCK ASSISTANCE

Sec. 201. Use of stored grain for assistance.
Sec. 202. Livestock transportation assistance.
Sec. 203. Livestock water development projects.
Sec. 204. Animal unit methodology study and report.

TITLE III—DISASTER CREDIT AND FORBEARANCE

Sec. 301. Emergency loans.
Sec. 302. 1990 farm operating loans.
Sec. 303. FmHA loans made to Indian tribes.

TITLE IV—RURAL BUSINESSES

Sec. 401. Disaster assistance for rural business enterprises.

TITLE V—WATER-RELATED ASSISTANCE

Sec. 501. Emergency community water assistance grant program.
Sec. 502. Livestock water assistance.
Sec. 503. Disaster assistance for watershed protection activities.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Shrinkage allowance for peanuts.
Sec. 602. Advanced deficiency repayment deadline for 1988 crops.
Sec. 603. Planting of alternate crops on permitted acreage.
Sec. 604. Crop insurance yield coverage.

TITLE I—EMERGENCY CROP LOSS ASSISTANCE

7 USC 1421 note.

Subtitle A—Annual Crops

SEC. 101. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.

(2) LIMITATIONS.—

(A) ACREAGE IN EXCESS OF PERMITTED ACREAGE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) CROP INSURANCE.—Payments provided under paragraph (1) for a crop of a commodity may not be made

available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

(3) REDUCTION IN DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) ELECTION OF PAYMENTS.—

(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply, effective only for the 1989 crops of wheat, feed grains, upland cotton, and rice, to producers on a farm who—

(i)(I) had failed wheat, feed grain, upland cotton, or rice acreage; or

(II) were prevented from planting acreage to such commodity because of damaging weather or related condition in 1988 or 1989; and

(ii) elected to devote all or a portion of such acreage to conservation or other uses in accordance with section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C), 1444e(c)(1)(B), 1444-1(c)(1)(B), or 1441-1(c)(1)(B)).

(B) ELECTION.—The Secretary shall (within 30 days after the date of enactment of this Act) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments in accordance with this section in lieu of payments under the sections referred to in subparagraph (A)(ii).

(b) ADVANCE DEFICIENCY PAYMENTS.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1989 crop of wheat, feed grains, upland cotton, or rice.

(2) FORGIVENESS OF REFUND REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition in 1988 or 1989 the total quantity of the 1989 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) with respect to that portion of the deficiency in production that does not exceed—

(i) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

(ii) in the case of other producers, 40 percent of the qualifying amount.

(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

(3) ELECTION FOR NONRECIPIENTS.—The Secretary shall allow producers on a farm who elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1989 crop under section 107C of the Agricultural Act of 1949, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

(4) DATE OF REFUND FOR PAYMENTS.—Effective only for the 1989 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refund shall not be required prior to July 31, 1990, for that portion of the crop for which a disaster payment is made under subsection (a).

SEC. 102. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 50 percent of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 50 percent for the crop.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to

the commodity for harvest in 1988 minus acreage actually planted to the commodity for harvest in 1989; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—

(1) ACREAGE LIMITATION PROGRAM.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

Contracts.

(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

SEC. 103. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for the 1989 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

(A) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 35 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1989; and

(B) in the case of producers who did not obtain crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 40 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1989.

(3) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 104(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1989 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1989 price support levels.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1988 minus acreage actually planted to harvest in 1989; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for the 1989 crops of tobacco.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107. Contracts.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1989 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1989 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

SEC. 104. SOYBEANS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—Effective only for the 1989 crops of soybeans and nonprogram crops, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that the producers on a farm are able to harvest is less than—

(i) with respect to soybeans and sunflowers, the result of multiplying 55 percent of the State, area, or county yield, adjusted for adverse weather conditions during the 1986, 1987, and 1988 crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

(ii) with respect to nonprogram crops (other than as provided in clauses (i) and (iii)), the result of multiplying 50 percent of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b); and

(iii) with respect to crops covered in section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)), 50 percent of the historical annual yield of the producers for such crops, as determined by the Secretary,

the Secretary shall make a disaster payment available to such producers.

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 45 percent for soybeans and sunflowers (50 percent for other nonprogram crops) for the crop.

(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary. Regulations.

(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of the 1989 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude at least 70 percent of—

(A) commodities that cannot be sold in normal commercial channels of trade; and

(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1988 minus acreage actually planted for harvest in 1989; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107. Contracts.

(d) SPECIAL RULES FOR NONPROGRAM CROPS.—

(1) DEFINITION OF NONPROGRAM CROP.—As used in this section, the term "nonprogram crop" means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1989, and other commercial crops (including sweet potatoes) for which such insurance was not available for crop year 1989, except that such term shall not include a crop covered under section 101, 102, or 103, soybeans, or sunflowers.

(2) FARM YIELDS.—

(A) ESTABLISHMENT.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(B) PROVEN YIELDS AVAILABLE.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yields.

(C) PROVEN YIELDS NOT AVAILABLE.—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(D) COUNTY AVERAGE YIELDS.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(3) RESPONSIBILITY OF PRODUCERS.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1989 crop losses resulting from damaging weather or related condition in 1988 or 1989 in order for such producers to obtain disaster payments under this section.

SEC. 105. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1989 crops covered under sections 101 through 104 are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 45 percent and not more than 75 percent for such crop (as determined under section 101, 102, 103, or 104, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 101;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 102;

(3) the payment level under section 103(a)(3), for commodities covered by section 103; and

(4) the payment level under section 104(a)(2), for commodities covered under section 104.

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1988 or 1989, as determined by the Secretary.

SEC. 106. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1989 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this subtitle for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for such crop; by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 101, the eligible acreage established under sections 101(a)(1) and 101(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1989 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1989 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 103(a)(3); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 104(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 107. CROP INSURANCE COVERAGE FOR THE 1990 CROPS.

(a) REQUIREMENT.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1988 or 1989, or forgiveness of the repayment of advance deficiency

payments under section 101(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1990 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) LIMITATIONS.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1989 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) IMPLEMENTATION.—

(1) COUNTY COMMITTEES.—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 101 through 105 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) OTHER SOURCES.—Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

Regulations.

(3) COMMISSIONS.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) REPAYMENT OF BENEFITS.—Notwithstanding any other provision of law, if (prior to the end of the 1990 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 108. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of the enactment of this Act, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1989 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 109. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed $100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this subtitle to the extent that such person receives a livestock emergency benefit for lost feed production in 1989 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d). Animals.

(c) COMBINED LIMITATION.—

(1) IN GENERAL.—No person may receive any payment under this subtitle or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1989 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000.

(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g)) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section and section 151, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the value of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or

1989) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

(c) ADMINISTRATION.—In carrying out this section, the Secretary shall—

(1) determine the value of the second crop based on the actual yield of the producers and average market prices for the second crop during a representative period; and

(2) take into account the historical cropping patterns of producers.

SEC. 111. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1989 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1988 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this subtitle, for the purposes of determining such producer's eligibility for a disaster payment on the 1989 crop under this subtitle and the amount of such payment.

(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1989 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this subtitle shall be adjusted as provided in paragraph (2).

(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this subtitle shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this subtitle using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this subtitle.

(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's 1988 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1989 crop of the commodity.

(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

SEC. 112. DEFINITIONS.

As used in this subtitle:

(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, or excessive wind, or any combination thereof.

(2) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

Subtitle B—Orchards

SEC. 121. ELIGIBILITY.

(a) DROUGHT LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 122, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze or related condition in 1989, as determined by the Secretary.

(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 45 percent (adjusted for normal mortality).

SEC. 122. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 121 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

SEC. 123. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 124. DEFINITION.

As used in this subtitle, the term "eligible orchardist" means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

SEC. 125. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other Federal program.

SEC. 126. SENSE OF CONGRESS ON CROP INSURANCE FOR ORCHARD CROPS.

It is the sense of Congress that the Secretary of Agriculture should expeditiously expand the availability of multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to all orchard crops.

Subtitle C—Forest Crops

SEC. 131. ELIGIBILITY.

(a) DROUGHT LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 132, to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of drought or related condition in 1989, as determined by the Secretary.

(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 45 percent (adjusted for normal mortality).

SEC. 132. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 131 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought or related conditions in 1989 in excess of 45 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 133. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 134. DEFINITION.

As used in this subtitle, the term "eligible tree farmer" means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

SEC. 135. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other Federal program.

Subtitle D—Additional Assistance

SEC. 141. NEW CONSERVATION MEASURES.

(a) IN GENERAL.—

(1) HAYING AND GRAZING ON CRP ACREAGE.—In the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and hays or grazes livestock during the 1989 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary may not reduce the amount of rental payments made to such owner or operator as the result of such haying or grazing to the extent that the owner or operator— Animals. Contracts.

(A) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(B) pays the costs of carrying out such practices.

(2) AMOUNT OF REDUCTION.—The amount of the reduction prohibited under paragraph (1) shall equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices.

(b) CONSERVATION PRACTICES.—For purposes of subsection (a), the term "conservation practices" includes—

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 142. ASSISTANCE FOR PONDS.

Section 607(b)(2)(B) of the Agricultural Act of 1949 (7 U.S.C. 1471e(b)(2)(B)) is amended by inserting "or ponds" after "wells".

Subtitle E—Administrative Provisions

SEC. 151. INELIGIBILITY.

(a) GENERAL RULE.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this title.

(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

SEC. 152. TIMING AND MANNER OF ASSISTANCE.

(a) TIMING OF ASSISTANCE.—

(1) IN GENERAL.—

(A) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—Subject to subparagraph (B), the Secretary of Agriculture shall make full disaster assistance available under this title as soon as practicable after the date of enactment of this Act.

(B) COMPLETED APPLICATION.—Subject to subparagraph (C), no payment or benefit provided under this title shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(C) APPLICATIONS PRIOR TO SEPTEMBER 30, 1989.—If an application for a disaster payment under this title is received by the Secretary prior to September 30, 1989, by producers who have harvested their 1989 crop, the Secretary shall make full or advance disaster payments to such producers within 15 days after the application is received or by September 15, 1989, whichever is later.

(D) ADVANCE PAYMENTS.—If advance payments are made to producers under subparagraph (C), such payments shall not be less than 80 percent of the payments that will be made available to such producers under this title.

(2) DEADLINE FOR APPLICATION.—To be eligible to receive payments under subtitle A, a person shall make application for such payments not later than March 31, 1990, or such later date that the Secretary, by regulation, may prescribe.

(b) MANNER.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 153. COMMODITY CREDIT CORPORATION.

(a) USE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

(b) EXISTING AUTHORITY.—The authority provided by this title shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 154. LIMITATION ON OUTLAYS.

(a) MAXIMUM AMOUNT.—Notwithstanding any other provision of law, if the acreage planted in the United States to the 1989 crop of corn is greater than 73,250,000 acres, the total amount expended for deficiency payments for the 1989 crops of wheat, feed grains, upland cotton, and rice under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall not exceed $6,700,000,000.

(b) PRORATION.—The Secretary shall make any reduction required under subsection (a) on a pro rata basis.

SEC. 155. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this title as soon as practicable after the date of enactment of this Act, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

TITLE II—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 201. USE OF STORED GRAIN FOR ASSISTANCE.

IN GENERAL.—Subsection (b) of section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d(b)) is amended to read as follows:

"(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary—

"(1) may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation; or

"(2) at the option of the livestock producer, shall provide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan made under this Act.".

SEC. 202. LIVESTOCK TRANSPORTATION ASSISTANCE.

Section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d) is amended by adding at the end the following new subsection:

"(f) The Secretary may make available at least $25,000,000 to provide livestock transportation assistance under subsection (a)(6) for livestock emergencies in 1989.".

SEC. 203. LIVESTOCK WATER DEVELOPMENT PROJECTS.

Section 607 of the Agricultural Act of 1949 (7 U.S.C. 1471e) is amended by adding at the end the following new subsection:

"(c) The Secretary may make available at least $25,000,000 to provide special assistance under subsection (b)(2) for livestock emergencies in 1988 and 1989.".

SEC. 204. ANIMAL UNIT METHODOLOGY STUDY AND REPORT.

The Secretary of Agriculture shall conduct a study on the methodology and justification of the calculations used to determine the animal unit figure used for purposes of the emergency feed program and the emergency feed assistance program under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d), and report to Congress the results of such study within 90 days of the date of enactment of this Act.

TITLE III—DISASTER CREDIT AND FORBEARANCE

SEC. 301. EMERGENCY LOANS.

7 USC 1961 note.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise

would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1989.

7 USC 1941 note.

SEC. 302. 1990 FARM OPERATING LOANS.

(a) DIRECT CREDIT.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) for 1990 crop production are made available to farmers and ranchers suffering major losses due to excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

(b) LOAN GUARANTEES.—

Real property.
Animals.

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make available in fiscal year 1990 guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act, to refinance and reamortize 1989 operating loans, or 1989 or 1990 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989.

(2) REAMORTIZATION.—Each fiscal year 1990 guaranteed loan for 1988 or 1989 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

(3) ELIGIBILITY.—Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title I shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1989 or 1990, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise—

(A) be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1989 or 1990 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment; and

(B) meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

(c) USE OF AGRICULTURAL CREDIT INSURANCE FUND.—For purposes of providing guaranteed loans in accordance with subsection (b), in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years 1989 or 1990 for emergency insured and guaranteed

loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) to meet the needs resulting from natural disasters, except that funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.

SEC. 303. FmHA LOANS MADE TO INDIAN TRIBES.

The Act entitled "An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes" (25 U.S.C. 488 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 6. REDUCTION OF UNPAID PRINCIPAL. 25 USC 493.

"(a) IN GENERAL.—The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under this Act, reduce the unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

"(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

"(2) the land has been held by the borrower for a period of at least 5 years; and

"(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

"(b) FAIR MARKET VALUE.—

"(1) APPRAISAL.—Current fair market value under subsection (a) shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

"(2) COSTS.—The cost of appraisals undertaken under paragraph (1) shall be paid by the borrower.

"(c) APPEALS.—Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

"(d) FUTURE APPLICATIONS.—A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.".

TITLE IV—RURAL BUSINESSES

SEC. 401. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES. 7 USC 1929a note.

(a) LOAN GUARANTEES.—The Secretary of Agriculture shall guarantee loans made in rural areas to—

(1) public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, directly or indirectly, by the drought, freeze, storm, excessive moisture, or related condition in 1988 or 1989; and Indians.

(2) such organizations, tribes, or entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988 or 1989.

(b) ELIGIBLE LOANS.—

(1) IN GENERAL.—Loans guaranteed under this section shall be loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency.

(2) PRODUCTION AGRICULTURE.—No application for a loan guarantee under this section shall be denied on the basis that such organization, tribe, or entity engages in whole or in part in production agriculture.

(c) LOAN GUARANTEE LIMITS.—

(1) PERCENTAGE OF PRINCIPAL AND INTEREST.—No guarantee under this section shall exceed 90 percent of the principal and interest amount of the loan or $2,500,000, whichever is the lesser amount.

(2) TOTAL AMOUNT.—The total amount of loan guarantee under this section shall not exceed $200,000,000.

(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) for the purposes of discharging the obligations of the Secretary under this section.

TITLE V—WATER-RELATED ASSISTANCE

SEC. 501. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306 (7 U.S.C. 1926) the following new section:

7 USC 1926a.

"SEC. 306A. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

Rural areas.

"(a) IN GENERAL.—The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy—

"(A) an acute shortage of quality water; or

"(B) a significant decline in the quantity or quality of water that is available.

"(b) PRIORITY.—In carrying out subsection (a), the Secretary shall—

"(1) give priority to projects described in subsection (a)(1); and

"(2) provide at least 70 percent of all such grants to such projects.

"(c) ELIGIBILITY.—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application was filed for such grant.

"(d) USES.—

"(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) JOINT PROPOSALS.—Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

"(e) RESTRICTIONS.—

"(1) MAXIMUM POPULATION AND INCOME.—No grant provided under this section shall be used to assist any rural area or community that— Rural areas.

"(A) includes any area in any city or town with a population in excess of 15,000 inhabitants according to the most recent decennial census of the United States; or

"(B) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

"(2) SET-ASIDE FOR SMALLER COMMUNITIES.—Not less than 50 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 5,000 inhabitants.

"(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), $500,000; and

"(2) in the case of each grant made under subsection (a)(2), $75,000.

"(g) FULL FUNDING.—Subject to subsection (e), grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

"(h) APPLICATION.—

"(1) NATIONALLY COMPETITIVE APPLICATION PROCESS.—The Secretary shall develop a nationally competitive application process to award grants under this section. The process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water.

"(2) TIMING.—The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $35,000,000 for each of the fiscal years 1990 and 1991, such sums to remain authorized until fully appropriated.".

(b) IMPLEMENTATION.—

(1) REGULATIONS.—The Secretary of Agriculture shall publish— 7 USC 1926a note.

(A) interim final regulations to carry out section 306A of the Consolidated Farm and Rural Development Act (as

added by subsection (a) of this section) not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306A of such Act not later than 90 days after the date of enactment of this Act.

(2) FUNDS.—

(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306A(i) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306A(a)(1) of the Consolidated Farm and Rural Development Act.

SEC. 502. LIVESTOCK WATER ASSISTANCE.

Section 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2202) is amended—

(1) by inserting after "measures" the following: "(including measures carried out to assist confined livestock)"; and

(2) effective only for fiscal year 1989, by striking "periods" and inserting "any fiscal year in which there is a period".

SEC. 503. DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES.

Subtitle A of title IV of the Disaster Assistance Act of 1988 is amended by inserting after section 401 (7 U.S.C. 2204c) the following new section:

16 USC 2203 note.

"SEC. 402. DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES.

"(a) IN GENERAL.—The Secretary of Agriculture may provide disaster relief assistance in accordance with this section to repair damage caused by storms occurring in 1988 or 1989 to watersheds located in any county in any State, to the extent that funds authorized by this section remain available.

"(b) FORM OF ASSISTANCE.—The assistance authorized by this section—

"(1) includes both financial and technical assistance; and

"(2) shall be provided in a manner consistent with similar assistance authorized under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1990.".

TITLE VI—GENERAL PROVISIONS

SEC. 601. SHRINKAGE ALLOWANCE FOR PEANUTS.

Effective only for the 1988 through 1990 crops of peanuts, section 359(p)(2)(B) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359(p)(2)(B)) is amended—

(1) in clause (i), by striking "(less such reasonable allowances for shrinkage as the Secretary may prescribe)"; and

(2) by adding at the end the following new clause:

"(iv)(I) The obligation of a handler to export peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that such allowance shall not be less than 4½ percent, except as provided in subclause (II). Exports.

"(II) The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.".

SEC. 602. ADVANCED DEFICIENCY REPAYMENT DEADLINE FOR 1988 CROPS.

Section 201(b)(4) of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) is amended by striking "July 31, 1989" and inserting "July 31, 1990".

SEC. 603. PLANTING OF ALTERNATE CROPS ON PERMITTED ACREAGE.

(a) IN GENERAL.—Subparagraph (E)(i) of section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) (as amended by the Act entitled "An Act to amend the Agricultural Act of 1949 for the 1990 crops to allow the planting of alternative crops on permitted acreage and to amend the provisions regarding the designation of farm acreage base as acreage base established for oats") is amended by inserting "mung bean, mustard," after "milkweed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 1 day after the date of enactment of the Act so entitled. 7 USC 1464 note.

SEC. 604. CROP INSURANCE YIELD COVERAGE.

The Federal Crop Insurance Act is amended by inserting after section 508 (7 U.S.C. 1508) the following new section:

"SEC. 508A. CROP INSURANCE YIELD COVERAGE. 7 USC 1508a.

"(a) IN GENERAL.—

"(1) YIELD COVERAGE.—Effective beginning with crops harvested in 1990, the Corporation may implement multiperil crop insurance underwriting rules that ensure that yield coverage, as specified in subsection (b), is provided to producers participating in the Federal crop insurance program.

"(2) APPLICATION.—Such underwriting rules and yield coverage, as specified in subsection (b), shall apply to wheat, feed grains, cotton, rice, and soybeans.

"(b) YIELD COVERAGE.— Contracts.

"(1) GENERAL COMMODITIES.—

"(A) PLANS.—A crop insurance contract offered to a producer of a crop of wheat, feed grains, cotton, or rice shall make available to such producer—

"(i) yield coverage based on the producer's farm program yield for the crop established under the program for the commodity involved; or

"(ii) a plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(B) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between the two alternatives described in subparagraph (A) on a commodity-by-commodity basis.

"(2) SOYBEANS.—A crop insurance contract offered to a producer of a crop of soybeans shall be based on a yield coverage plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(3) ACTUAL PRODUCTION HISTORY.—

"(A) INADEQUATE DOCUMENTATION.—Under a plan that uses actual production history, as provided for in paragraph (1) or (2), if the producer does not submit adequate documentation of such history for a crop—

"(i) in the case of any commodity other than soybeans, the producer shall be assigned the producer's farm program yield for that crop of the commodity; and

"(ii) in the case of soybeans, the producer shall be assigned a yield equal to 100 percent of the area average yield for that crop of soybeans, as established by the Corporation.

Public information.

"(B) NOTICE OF AREA AVERAGE YIELDS.—Area average yields applicable to any county shall be posted and available for inspection at the county office of the Agricultural Stabilization and Conservation Service.

"(C) MINIMUM COVERAGE.—In no case may a producer's coverage under such plan that uses actual production history be less than the coverage established using farm program yields, or (for soybeans) 100 percent of the most recent area average yield.

"(c) USE OF YIELD COVERAGE PROVISIONS.—

"(1) NOTICE.—The Corporation shall ensure that, whenever the yield coverage provisions of this section go into effect, producers are given adequate notice of such provisions in advance of the crop insurance sign-up period applicable to the crops to which such provisions first will apply.

Federal Register, publication.

"(2) SIGN-UP PERIOD.—To the extent that the provisions of this section are made applicable to the 1990 crops, the Corporation shall ensure that the sign-up period for any 1990 crop does not end earlier than 60 days following the publication of notice of such provisions in the Federal Register.".

Approved August 14, 1989.

LEGISLATIVE HISTORY—H.R. 2467 (S. 1429):

HOUSE REPORTS: No. 101-91 (Comm. on Agriculture).
SENATE REPORTS: No. 101-93 accompanying S. 1429 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
Aug. 2, considered and passed Senate, amended.
Aug. 4, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Aug. 14, Presidential remarks.

Public Law 101-83
101st Congress

Joint Resolution

To designate the week beginning September 1, 1989, as "World War II Remembrance Week".

Aug. 14, 1989
[H.J. Res. 221]

Whereas on September 1, 1939, troops of the German Third Reich launched a surprise attack upon Poland and began the military actions that led to World War II;

Whereas the Governments of Japan, Italy, and other states subsequently joined Nazi Germany in attacking their neighboring states to bolster their national pride and achieve imperialistic economic advantages;

Whereas the United Kingdom, France, the United States, and many other nations declared war upon the aggressors;

Whereas as a result of the six-year conflict that ensued over fifteen million combatants were killed and over twenty-four million noncombatants died;

Whereas the warring nations suffered nearly $1,000,000,000,000 in costs directly related to the conduct of the war, and the severe disruption and dislocation of the conflict resulted in losses totaling many times that amount to their economies;

Whereas as a result of the vicious racist policies of the Government of Nazi Germany and some of its allies, millions of innocent men, women, and children were murdered, including some six million Jews;

Whereas as a result of wartime fears and prejudices, millions of innocent individuals were needlessly displaced, interned, harassed, placed under suspicion, and deprived of their property by nations on both sides of the conflict; and

Whereas as a consequence of technological innovations which came about as a result of this war, devastating conventional weapons and the threat of nuclear annihilation directly affect growing segments of civilian populations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the fiftieth anniversary of the outbreak of World War II, the week beginning September 1, 1989, is designated "World War II Remembrance Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the period with appropriate programs, ceremonies, and activities.

Approved August 14, 1989.

LEGISLATIVE HISTORY—H.J. Res. 221:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 101-84
101st Congress

Joint Resolution

Aug. 14, 1989
[S.J. Res. 55]

To designate the week of October 1, 1989, through October 7, 1989, as "Mental Illness Awareness Week".

Whereas mental illness is a problem of grave concern and consequence in American society, widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital developmental and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that one in ten AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental

illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the seven-day period beginning October 1, 1989, and ending October 7, 1989, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved August 14, 1989.

LEGISLATIVE HISTORY—S.J. Res. 55:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

Public Law 101-85
101st Congress

Joint Resolution

Aug. 14, 1989
[S.J. Res. 67]

To commemorate the twenty-fifth anniversary of the Wilderness Act of 1964 which established the National Wilderness Preservation System.

Whereas 1989 marks the twenty-fifth anniversary of the establishment of the National Wilderness Preservation System;
Whereas wilderness areas were created to secure for the American people the benefits of an enduring resource of wilderness;
Whereas Congressionally designated wilderness is an area of undeveloped Federal land where earth and nature are untrammeled by man, and where man is a visitor who does not remain;
Whereas wilderness areas allow us to preserve ecological, geological, scientific, educational, scenic, and historical values;
Whereas wilderness areas provide outstanding opportunities for solitude and primitive recreation;
Whereas in 1924 the Gila Wilderness in New Mexico was the first administratively designated wilderness in the nation, and became statutory wilderness in 1964;
Whereas there are four hundred and seventy-four units totaling nearly ninety-one million acres in forty-four States that comprise the National Wilderness Preservation System today;
Whereas a wide range of individuals, organizations, and agencies with differing perspectives have worked with Congress to promote preservation of wilderness areas;
Whereas the Forest Service, the National Park Service, the Fish and Wildlife Service, and the Bureau of Land Management are entrusted to protect and manage our wilderness heritage;
Whereas the Wilderness Act passed in both houses of Congress with a strong sense of bipartisan support; and
Whereas the Wilderness Act was signed into law on September 3, 1964 by President Lyndon Baines Johnson: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 3 through September 9, 1989, is designated as "National Wilderness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and programs.

Approved August 14, 1989.

LEGISLATIVE HISTORY—S.J. Res. 67:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

Public Law 101-86
101st Congress

An Act

To provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits.

Aug. 16, 1989
[H.R. 1860]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS; DESCRIPTION OF TEMPORARY POSITIONS. 13 USC 23 note.

(a) DEFINITIONS.—For purposes of this Act—

(1) the term "annuitant" means an annuitant within the meaning of section 8331(9) or 8401(2) of title 5, United States Code;

(2) the term "temporary" is used in the same way as described in section 24(b) of title 13, United States Code;

(3) the term "census of population" has the meaning given that term by section 141(g) of title 13, United States Code;

(4) the term "active employee" means an employee within the meaning of section 8331(1) or 8401(11) of title 5, United States Code;

(5) the term "retired or retainer pay" has the meaning given that term by section 5531(3) of title 5, United States Code; and

(6) the term "uniformed services" has the meaning given that term by section 2101(3) of title 5, United States Code.

(b) DESCRIPTION OF TEMPORARY POSITIONS.—This Act applies with respect to service in any temporary position within the Bureau of the Census established for purposes relating to the 1990 decennial census of population (as determined under regulations which the Secretary of Commerce shall prescribe).

SEC. 2. EXEMPTION FOR REEMPLOYED ANNUITANTS. 13 USC 23 note.

(a) GENERALLY.—Subject to subsection (b), an annuitant who becomes reemployed in a temporary position described in section 1(b) shall, with respect to any period of service in such position, be exempt from section 8344 or 8468 of title 5, United States Code (as otherwise applicable).

(b) EXCEPTIONS.—This section—

(1) shall not apply with respect to any annuitant who, immediately before being placed in the temporary position, was employed in a Government position in which pay for that annuitant was being reduced under either of the provisions referred to in subsection (a); and

(2) shall not have the effect of exempting a reemployed annuitant from section 8344 or 8468 of title 5, United States Code, after the expiration of the period described in section 4.

(c) CLARIFICATION.—Nothing in this section shall have the effect of causing a reemployed annuitant to be treated as an active employee

for purposes of any provision of chapter 83 or 84 of title 5, United States Code.

13 USC 23 note.

SEC. 3. EXEMPTION FOR FORMER MEMBERS OF THE UNIFORMED SERVICES.

(a) Subject to subsection (b), the retired or retainer pay of a former member of a uniformed service employed in a temporary position described in section 1(b) shall, with respect to any period of service in such position, be exempt from section 5532 of title 5, United States Code.

(b) This section—

(1) shall not apply with respect to any former member of a uniformed service if, immediately before being placed in the temporary position, the retired or retainer pay of such former member was being reduced under section 5532 of title 5, United States Code (or would have been reduced but for subsection (d)(2) of such section); and

(2) shall not have the effect of exempting a former member of a uniformed service from section 5532 of title 5, United States Code, after the expiration of the period described in section 4.

(c) For purposes of this section, the term "former member of a uniformed service" means a member or former member of a uniformed service.

13 USC 23 note.

SEC. 4. LIMITATION.

An exemption under section 2 or 3 shall not, in the case of any individual, apply longer than—

(A) the first period of 6 calendar months for which the individual receives pay for service in any temporary position described in section 1(b), if the individual serves under not more than one appointment; or

(B) if the individual serves under more than one appointment, the first period of 6 calendar months (determined in the aggregate) for which the individual receives pay for service in any temporary position described in section 1(b).

13 USC 23 note.

SEC. 5. APPLICABILITY.

This Act applies with respect to appointments made on or after the date of enactment of this Act, but does not apply with respect to any service performed after December 31, 1990.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 1860:

HOUSE REPORTS: No. 101-142 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Aug. 4, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Aug. 16, Presidential statement.

Public Law 101-87
101st Congress

An Act

To extend by 1 year a program under which the Government is allowed to accept the voluntary services of private-sector executives.

Aug. 16, 1989
[H.R. 2847]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Executive Exchange Program Voluntary Services Act of 1986 (5 U.S.C. 4103 note) is amended by striking "1989" and inserting "1990".

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 2847:

HOUSE REPORTS: No. 101-180 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Aug. 3, considered and passed Senate.

Public Law 101-88
101st Congress

Joint Resolution

Aug. 16, 1989
[H.J. Res. 225]

To authorize and request the President to issue a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 225:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 3, considered and passed House and Senate.

Public Law 101-89
101st Congress

Joint Resolution

Designating September 1989 as "National Library Card Sign-Up Month".

Aug. 16, 1989
[H.J. Res. 231]

Whereas American libraries of all kinds (public libraries, school library media centers, academic and research libraries, and special libraries) are essential to national literacy, lifelong learning, and a productive economy;

Whereas children who are read to in their homes at an early age and who grow up regularly using libraries perform better in school and are more likely to continue to be library users as adults;

Whereas the United States National Commission on Libraries and Information Science and the American Library Association have launched a national campaign to ensure that every school-age child in the Nation will have, and will be encouraged to use, a library card;

Whereas a library card cannot be outgrown and is good for a lifetime of learning and enjoyment;

Whereas parents and schools are important partners in the effort to give the wonderful gift of a library card to every child in the Nation; and

Whereas a library card is an essential resource for every child's education and September is the month during which children return to school: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1989 is designated as "National Library Card Sign-Up Month", and the President is authorized and requested to issue a proclamation calling upon the libraries, schools, and people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 231:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 3, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-90
101st Congress

Joint Resolution

Aug. 16, 1989
[H.J. Res. 253]

Designating September 8, 1989, as "National Pledge of Allegiance Day"

Whereas Francis Bellamy wrote the Pledge of Allegiance to the Flag in 1892 in observance of the 400th anniversary of the discovery of America;

Whereas the Pledge of Allegiance first appeared in print in the September 8, 1892, edition of The Youth's Companion magazine;

Whereas in 1942, the 77th Congress passed, and the President approved, legislation concerning the display and use of the United States flag, which included the Pledge of Allegiance; and

Whereas the Pledge of Allegiance is one of the most widely recited verses of American literature: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PLEDGE OF ALLEGIANCE DAY.

September 8, 1989, is designated as "National Pledge of Allegiance Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day by displaying the United States flag and by participating in other appropriate activities.

SEC. 2. USE OF THE PLEDGE DURING CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE ACTIVITIES.

It is the sense of the Congress that the Christopher Columbus Quincentenary Jubilee Commission, created pursuant to Public Law 98-375 to commemorate the 500th anniversary in 1992 of the discovery of America, should include the centennial observance of the Pledge of Allegiance in its commemorative activities.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 253:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 4, considered and passed House and Senate.

Public Law 101-91
101st Congress

Joint Resolution

Commending the citizens of the Sioux City, Iowa, tri-State area for their heroism and spirit of volunteerism in selflessly providing assistance and life-saving services to the passengers and crew of United Airlines Flight 232.

Aug. 16, 1989
[H.J. Res. 379]

Whereas United Airlines Flight 232 tragically crashed while making an emergency landing attempt at the Sioux Gateway Airport in Sioux City, Iowa, on July 19, 1989;

Whereas the skills and courage of the pilot, flight crew, and air traffic controllers, and the immediate mobilization of State and local rescue units from Iowa, Nebraska, and South Dakota, significantly contributed to the survival of 185 of the 296 passengers aboard the flight;

Whereas the disaster plan which had been designed by the Woodbury County Disaster Committee was largely responsible for the remarkable success of the rescue effort;

Whereas the people of the Sioux City, Iowa, tri-State area mobilized without hesitation to provide aid and comfort to the injured;

Whereas by the time that United Airlines Flight 232 touched down, the Sioux Gateway Crash, Fire, and Rescue Squad, the 185th Tactical Fighter Group of the Iowa Air National Guard, members of city police forces and county sheriffs' departments, municipal firefighters, Red Cross workers, and other local rescue teams were on the scene to immediately begin to help the wounded and transport them for treatment;

Whereas the physicians, nurses, and other personnel of St. Luke's Regional Medical Center and the Marian Health Center worked exhaustively to treat the injured;

Whereas hundreds of people in the Sioux City, Iowa, tri-State area donated blood at a local bloodbank without solicitation to assist in the treatment efforts;

Whereas Briar Cliff College and Morningside College opened their dormitories to the survivors, the families of the survivors, rescue teams, and investigators while residents contributed blankets, clothing, and food; and

Whereas had it not been for the remarkable speed, skill, and preparedness of the emergency crews, and the assistance and generosity of the people of the Sioux City, Iowa, tri-State area, the number of survivors would likely have been much lower: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the citizens of the Sioux City, Iowa, tri-State area are commended for their heroism and spirit of volunteerism in selflessly providing assistance and life-saving services to the passengers and crew of United Airlines Flight 232, and the President is authorized and requested to issue a proclamation making such commendation.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 379:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 4, considered and passed House and Senate.

Public Law 101-92
101st Congress

An Act

To authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, and for other purposes.

Aug. 16, 1989
[H.R. 840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. In fiscal year 1990, $16,350,000 is authorized to be appropriated for the use of the Federal Maritime Commission.

SEC. 2. (a) The Federal Maritime Commission shall require that complete and updated electronic copies of the Automated Tariff Filing and Information data base are made available (in bulk) in a timely and nondiscriminatory fashion, and the Commission shall assess reasonable fees for this service consistent with section 552 of title 5, United States Code.

Public information.
46 USC app. 1111c.

(b) The Commission shall impose reasonable controls on the system to limit remote access usage by any one person.

(c) The Commission shall provide that any information from the Automated Tariff Filing and Information System that is made available to the public may be used, resold, or disseminated by any person without restriction and without payment of additional fees or royalties.

SEC. 3. The first paragraph of section 2 of the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 844) is amended—

(1) by inserting in the third sentence after "on board each vessel" the words "that carries passengers";

(2) by striking in the seventh sentence ", if filed as permitted by this section and framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times,"; and

(3) by striking in the seventh sentence "on board each vessel" the second time it appears.

SEC. 4. (a) Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for employment in the coastwise trade or fisheries, or both, for the following vessels:

Fish and fishing.

(1) African Queen, United States official number 947514 and Florida registration number FL 9357CE;

(2) American Empire, United States official number 553645;

(3) HMS Discovery, Washington State registration number WAZ 9816 F; and

(4) Papa Joe, Florida registration number FL 3900CW.

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and United States Department of Transportation Contract Numbered MA-3915 and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the

vessel M/V Northern Victor (ex Ocean Cyclone, ex Coastal Spartan), United States official number 248959, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

SEC. 5. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and sections 12106 and 12107 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for employment in the coastwise trade of the United States for the vessel M/V South Bass (Registration number 949048).

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 840:

HOUSE REPORTS: No. 101-31 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-71 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 25, considered and passed House.
Aug. 4, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 101-93
101st Congress

An Act

To amend the Public Health Service Act to make technical corrections relating to subtitles A and G of title II of the Anti-Drug Abuse Act of 1988, and for other purposes

Aug. 16, 1989
[H.R. 1426]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Drug Abuse Treatment Technical Corrections Act of 1989.
42 USC 201 note.

This Act may be cited as the "Drug Abuse Treatment Technical Corrections Act of 1989".

SEC. 2. TECHNICAL CORRECTIONS WITH RESPECT TO ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT.

(a) FORMULA FOR ALLOTMENTS.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 2022(a) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "Subpart I" and inserting "Subpart 1". 42 USC 300x-1a.

(2) MODIFICATION FOR DISTRICT OF COLUMBIA.—Section 1912A(a)(4) of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 2022 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking subparagraphs (C) and (D) and inserting the following: 42 USC 300x-1a.

"(C) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State involved, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P', as determined for the State under subparagraph (B).

"(D) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of—

"(I) the sum of the respective amounts determined for each of the several States under subparagraph (C)(i); and

"(II) an amount equal to the most recent 3-year average of the total taxable resources of the District of Columbia, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).

"(E) In the case of the District of Columbia, for purposes of the formula specified in subparagraph (A)(ii)(II)—

"(i) the term 'S' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in such District, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the term 'P', as determined for such District under subparagraph (B); and

"(ii) the term 'N' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in the United States, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).".

(3) CLARIFICATION WITH RESPECT TO ALLOTMENTS FOR TERRITORIES.—Section 1912A(c) of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 2022(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

42 USC 300x-1a.

"(c)(1) Subject to paragraph (2), the allotment under this subpart for a territory of the United States shall be the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories of the United States, as indicated by such data.

"(2) Each territory of the United States shall receive a minimum allotment under this subpart of the greater of—

"(A) $100,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the territory received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(ii) the amount the territory received under part C for fiscal year 1988 (as such part was in effect for such fiscal year).

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1911 for allotments under this subpart for each fiscal year.".

(4) CERTAIN ADDITIONAL CLARIFICATIONS.—Section 1912A of the Public Health Service Act, as added and amended pursuant to paragraphs (1) through (3) of this subsection and sections 2022 and 2023 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(A) in subparagraph (A) of subsection (a)(4)—

(i) in clause (i), by striking "the term" and all that follows and inserting the following: "the term 'P', as determined for the State involved under subparagraph (B); and"; and

(ii) in clause (ii)(II), by inserting "for the State" after "determined";

(B) in subparagraph (B) of subsection (a)(4), in clauses (ii) through (iv), by striking "years of age," each place such term appears and inserting "years of age (inclusive)";

(C) in subsection (b)(2)(B), by inserting before the period the following: "(as such part was in effect for such fiscal year)";

(D) in subsection (e)—

(i) in paragraph (1)(A), by striking "appropriated" and inserting "available for allotments to the States from appropriations"; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "for the fiscal year involved"; and

(II) in subparagraph (B), by striking "or less than"; and

(E) in subsection (f), by striking "applicable amount" each place it appears and inserting "amount applicable".

(5) REALIGNMENT OF MARGINS.—Section 1912A(a) of the Public Health Service Act, as added and amended pursuant to paragraphs (1) through (4) of this subsection and section 2022 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 300x-1a.

(A) by moving paragraph (2), including the subparagraphs of such paragraph, 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and the left margins of such subparagraphs are indented 4 ems;

(B) by moving paragraph (3) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems; and

(C) by moving paragraph (4), including the subparagraphs, clauses, and subclauses of such paragraph, 2 ems to the left, so that—

(i) the left margin of such paragraph is indented 2 ems;

(ii) the left margins of clauses (i) and (ii) of subparagraph (A) are indented 4 ems and the left margins of subclauses (I) and (II) of such clause (ii) are indented 6 ems; and

(iii) the left margins of subparagraphs (B) through (E) are indented 2 ems, the left margins of the clauses of such subparagraphs are indented 4 ems, and the left margins of the subclauses of such clauses are indented 6 ems.

(b) CERTAIN PROVISIONS WITH RESPECT TO ALLOTMENTS.—Section 1913(a) of the Public Health Service Act, as amended by section 2022(d) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 300x-1b.

(1) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively; and

(2) in the matter after and below paragraph (3) (as so redesignated), by striking "this paragraph." and inserting "this subsection.".

(c) PAYMENTS UNDER ALLOTMENTS.—

(1) CORRECTIONS OF CERTAIN REFERENCES.—Paragraph (1) of section 1914(a) of the Public Health Service Act (42 U.S.C. 300x-2(a)) is amended—

(A) by striking "section 203" and all that follows through the comma and inserting the following: "section 6503 of title 31, United States Code,";

(B) by striking "1913(b)" and inserting "1912A"; and

(C) by striking "1913(c))" and inserting "1913(b))".

42 USC 300x-2 note.

(2) ESTABLISHMENT OF WAIVER WITH RESPECT TO AVAILABILITY OF PAYMENTS.—

(A) Notwithstanding paragraph (2) of section 1914(a) of the Public Health Service Act, as amended by section 2022(e) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), the Secretary of Health and Human Services, upon the request of a State, may waive, with respect to fiscal year 1989, the requirement established in such paragraph if the Secretary determines that it is not practicable for the State to comply with such requirement.

(B) If the Secretary approves a request for a waiver under subparagraph (A), amounts paid to a State for fiscal year 1989 under subpart 1 of part B of title XIX of the Public Health Service Act—

(i) shall remain available for obligation by the State until October 1, 1990; and

(ii) shall remain available for expenditure by the State until such date.

(d) PREVENTION AND TREATMENT WITH RESPECT TO INTRAVENOUS DRUG ABUSE.—Section 1915(c) of the Public Health Service Act, as amended by section 2025 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 300x-3.

(1) in paragraph (1)(C), by inserting "intravenous" before "drug"; and

(2) in paragraph (2), by striking "and" at the end of subparagraph (A) and inserting "or".

(e) NEW MENTAL HEALTH SERVICES AND PROGRAMS.—Section 1916(c)(2)(A) of the Public Health Service Act, as amended by section 2027 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "this part" and inserting "this subpart". 42 USC 300x-4.

(f) INDEPENDENT PEER REVIEW AND MANNER OF COMPLIANCE.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 2028 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended in the matter preceding paragraph (1) by striking "1916" and inserting "1916(c)". 42 USC 300x-4.

(2) CORRECTION OF SENTENCE STRUCTURE.—Section 1916(c)(5) of the Public Health Service Act, as amended pursuant to paragraph (1) of this subsection and section 2028 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "the State will" and inserting "The State agrees to".

(g) INTRASTATE ALLOCATIONS.—

(1) IN GENERAL.—Section 1916(c)(6)(A) of the Public Health Service Act (42 U.S.C. 300x-4(c)(6)(A)) is amended by amending the matter preceding clause (i) to read as follows: "Except as provided in subparagraph (B), the State agrees to use the funds allotted to it each fiscal year under section 1912A for the mental health and alcohol and drug abuse activities authorized in section 1915 as follows:".

(2) DETERMINATION OF ALLOCATION FOR MENTAL HEALTH PROGRAMS.—Clause (i) of section 1916(c)(6)(A) of the Public Health Service Act (42 U.S.C. 300x-4(c)(6)(A)) is amended—

(A) by inserting "and" after "Systems Act";

(B) by striking "State in fiscal year 1980" and inserting "State (I) in fiscal year 1980"; and

(C) by inserting before the period the following: ", (II) in fiscal year 1988 under part C of this title (as such part was in effect for such fiscal year), and (III) in fiscal year 1989

under appropriations made in the Anti-Drug Abuse Act of 1988 to carry out this subpart".

(3) DETERMINATION OF ALLOCATION FOR PROGRAMS WITH RESPECT TO TREATMENT OF SUBSTANCE ABUSE.—

(A) Clause (ii) of section 1916(c)(6)(A) of the Public Health Service Act, as amended by section 2029(1) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as if the amendment made by such section 2029(1) had not been enacted. 42 USC 300x-4.

(B) Clause (ii) of section 1916(c)(6)(A) of the Public Health Service Act, as amended by subparagraph (A), is further amended—

(i) by striking "State in fiscal year 1980" and inserting "State (I) in fiscal year 1980";

(ii) by striking "Rehabilitation Act bore to" and inserting the following: "Rehabilitation Act, (II) in fiscal year 1988 under part C of this title (as such part was in effect for such fiscal year), and (III) in fiscal year 1989 under appropriations made in the Anti-Drug Abuse Act of 1988 to carry out this subpart bore to"; and

(iii) by striking "such fiscal year under such sections" and inserting "such fiscal years under such provisions of law".

(4) CERTAIN CLARIFICATIONS.—Section 1916(c)(6)(B) of the Public Health Service Act, as amended by section 2029(2) of the Anti-Drug Abuse Act of 1988, is amended—

(A) by striking "under section 1913" and all that follows through "fiscal year 1984" and inserting the following: "under section 1912A for fiscal years beginning after 1988"; and

(B) by striking "activities prescribed" and all that follows and inserting the following: "activities authorized in section 1915 as required in subparagraph (A).".

(h) SET-ASIDE FOR SERVICES FOR INTRAVENOUS DRUG ABUSE.—

(1) TECHNICAL CORRECTION FOR FACILITATION OF ESTABLISHMENT OF WAIVER.—Section 1916(c)(7) of the Public Health Service Act, as amended by section 2030 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as if the amendment made by such section 2030 had not been enacted.

(2) ESTABLISHMENT OF WAIVER.—Section 1916(c)(7) of the Public Health Service Act, as amended by paragraph (1), is further amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after the paragraph designation; and

(C) by adding at the end the following new subparagraph:

"(B)(i) For fiscal year 1990 and subsequent fiscal years, the State agrees that, of the amounts reserved by the State to carry out subparagraph (A)(ii), the State will expend not less than 50 percent to provide services described in section 1915(c). State and local governments.

"(ii) The Secretary may, upon the request of a State, waive all or part of the requirement established in clause (i) for the State if the Secretary determines that the incidence of intravenous drug abuse in the State does not require the level of funding required in such clause. The Secretary shall act upon a request

for such a waiver not later than 120 days after the date on which the request is made. The Secretary may approve such request only after providing interested persons in the State an opportunity to comment upon the request.".

(i) MAINTENANCE OF EFFORT.—Section 1916(c)(11) of the Public Health Service Act, as amended by section 2031 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "that the State" and all that follows through "this subpart" and inserting the following: "to maintain State expenditures for alcohol, drug abuse, and community mental health services".

42 USC 300x-4.

(j) SET-ASIDE FOR WOMEN AND CHILDREN.—Section 1916(c)(14) of the Public Health Service Act, as amended by section 2032 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(1) by striking "this part" and inserting "this subpart"; and

(2) by inserting "alcohol and drug abuse" before "programs".

(k) SET-ASIDE FOR MENTAL HEALTH SERVICES FOR CHILDREN.—Section 1916(c)(15) of the Public Health Service Act, as amended by section 2033 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by adding a period at the end of subparagraph (B).

(l) ESTABLISHMENT OF REQUIREMENT OF MENTAL HEALTH SERVICES PLANNING COUNCIL.—Section 1916(e) of the Public Health Service Act, as amended and designated by subsections (a) and (b) of section 2035 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(1) in paragraph (1), by striking "The State agrees" and inserting the following: "As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees"; and

(2) in paragraph (5), by striking "section 1925" and inserting "subsection (d)".

(m) GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 2036 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "Subpart I" and inserting "Subpart 1".

42 USC 300x-4a.

(2) INAPPLICABILITY OF REQUIREMENT TO TERRITORIES OTHER THAN PUERTO RICO.—Section 1916A of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 2036 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by adding at the end the following new subsection:

42 USC 300x-4a.

"(d) The requirements established in subsections (a) and (b) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.".

(n) SERVICE RESEARCH ON COMMUNITY-BASED ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.—

(1) CLARIFICATION IN PUBLIC HEALTH SERVICE ACT.—Section 1922 of the Public Health Service Act, as added by section 2039 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended in the second sentence by striking "programs" and inserting "evaluations".

42 USC 300x-9a.

(2) CLARIFICATION IN ANTI-DRUG ABUSE ACT OF 1988.—Section 2039(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "the program to be established under" and inserting "carrying out the evaluations required in".

42 USC 300x-9a note.

(o) STATE COMPREHENSIVE MENTAL HEALTH SERVICE PLAN.—

(1) NULLIFICATION OF INCORRECT EXPRESSION OF CONGRESSIONAL INTENT.—Section 1925(d) of the Public Health Service

Act, as amended by section 2041(a) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as if the amendment made by such section 2041(a) had not been enacted. 42 USC 300x-11.

(2) EFFECTUATION OF CONGRESSIONAL INTENT.—Section 1926(d) of the Public Health Service Act, as redesignated by section 2038 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows: 42 USC 300x-12.

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount that the State is permitted to expend for administrative expenses under section 1915(d) for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year. If in the judgment of the Secretary, the State is making a good faith effort to comply with this subpart, the Secretary may assess the State a penalty that is less than the maximum penalty, but in no event shall the penalty be less than 2 percent of the amount the State is permitted to expend for administrative expenses.". State and local governments.

(3) CORRECTION OF CROSS-REFERENCE IN ANTI-DRUG ABUSE ACT OF 1988.—Section 2041(b)(2)(D) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "this title." and inserting "such section 1925.". 42 USC 300x-11 note.

(p) MISCELLANEOUS CORRECTIONS.—Subpart 1 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-4) is amended—

(1) in section 1916— 42 USC 300x-4.

(A) in subsection (a), in the first sentence, by striking "1913(b)" and inserting "1912A"; and

(B) in subsection (b), by striking "After the expiration" and all that follows through "such section unless" and inserting the following: "No funds shall be allotted to a State for a fiscal year under section 1912A unless"; and

(2) in section 1917(b)(3), in the last sentence, by striking "1913." and inserting "1912A.". 42 USC 300x-5.

(q) SERIOUSLY MENTALLY ILL.—

(1) MENTAL HEALTH SERVICES PLANNING COUNCIL.—Section 1916(e)(3)(iii) of the Public Health Service Act (42 U.S.C. 300x-4(e)(3)(iii)) is amended by striking out "chronically" and inserting in lieu thereof "seriously".

(2) COMMUNITY-BASED MENTAL HEALTH TREATMENT.—Section 1923(c)(1) of such Act (42 U.S.C. 300x-9b(c)(1)) is amended by striking out "chronically" and inserting in lieu thereof "seriously" each place that such occurs.

SEC. 3. TECHNICAL CORRECTIONS WITH RESPECT TO CERTAIN PROGRAMS OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION.

(a) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508 of the Public Health Service Act, as amended by subsections (a) and (c) of section 2051 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 290aa-6.

(1) in subsection (d)(1), by inserting a comma after "509F"; and

(2) in subsection (b)(11)(B), by striking "subparagraph (a)" and inserting "subparagraph (A)".

(b) REQUIREMENT OF ANNUAL COLLECTION BY SECRETARY OF CERTAIN DATA WITH RESPECT TO MENTAL ILLNESS AND SUBSTANCE ABUSE.—Section 509D(c) of the Public Health Service Act, as added by section 2052 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 290aa-11.

(1) in paragraph (1)(A), by striking "alcohol and" and inserting "alcohol or"; and

(2) in paragraph (2), by striking "this section." and inserting "this subsection.".

(c) REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.—Section 509E(d) of the Public Health Service Act, as added by section 2053 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

42 USC 290aa-12.

"(d) With respect to a public or nonprofit private entity, the Secretary may not, under subsection (a), make more than one grant to the entity.".

(d) DRUG ABUSE DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.—Section 509G of the Public Health Service Act, as added by section 2055 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC 290aa-14.

(1) in subsection (a)(2)—

(A) by striking "subsection (a)" and inserting "paragraph (1)"; and

(B) by inserting "a" before "result"; and

(2) in subsection (b)—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking "subsection (a)" and inserting "paragraph (1)";

(B) in paragraph (3), in the matter preceding subparagraph (A), by striking "subsection (a)" and inserting "paragraph (1)";

(C) in paragraph (4)—

(i) by striking "subsection (a)" and inserting "paragraph (1)"; and

(ii) by striking "by regulation";

(D) in paragraph (5), by striking "subsection (a)" and inserting "paragraph (1)";

(E) in paragraph (6), by striking "this section" and inserting "paragraph (1)"; and

(F) in paragraph (7)—

(i) by striking "this section" the first place it appears and inserting "paragraph (1)"; and

(ii) by striking "this section" the second place it appears and inserting "such paragraph".

(e) ESTABLISHMENT OF GRANT PROGRAMS FOR RESEARCH WITH RESPECT TO MENTAL HEALTH SERVICES.—

(1) CERTAIN REDESIGNATIONS.—

(A) Subpart 3 of part B of title V of the Public Health Service Act, as added by section 2057(3) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by redesignating sections 519 through 520A as sections 518 through 520, respectively.

42 USC 290cc-11—290cc-13.

(B) Section 520(a) of the Public Health Service Act, as redesignated by subparagraph (A), is amended—

42 USC 290cc-13.

(i) by redesignating paragraph (5) as paragraph (4); and

(ii) in paragraphs (2) through (4) (as so redesignated), by inserting "for" before "demonstration" each place such term appears.

(2) CORRECTION TO CERTAIN SECTION TITLE.—Section 520 of the Public Health Service Act, as redesignated by paragraph (1)(A),

is amended in the title by striking "PROGRAM" and inserting "PROGRAMS".

(f) MISCELLANEOUS AMENDMENTS.—

(1) REFERENCE TO OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 501(b)(4) of the Public Health Service Act, as added by section 2058(a)(2)(A) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "of" and inserting "for". 42 USC 290aa.

(2) AUTHORITY FOR ESTABLISHMENT OF PROGRAM ADVISORY COMMITTEES.—Section 501(j) of the Public Health Service Act (42 U.S.C. 290aa(j)) is amended in the first sentence—

(A) by striking "section 507" and all that follows through "groups," and inserting the following: "section 507, establish program advisory committees, and pay members of such groups and committees,"; and

(B) by striking "as members of such groups." and inserting "as members of such groups or committees.".

(g) SERIOUSLY MENTALLY ILL.—Section 520A of the Public Health Service Act (42 U.S.C. 290cc-13) is amended by striking out "chronically" and inserting in lieu thereof "seriously" each place that such occurs.

SEC. 4. TECHNICAL CORRECTIONS WITH RESPECT TO COMMUNITY YOUTH ACTIVITY PROGRAM.

Chapter 3 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended—

(1) in section 3521— 42 USC 11841.

(A) in subsection (b)(2), by striking "subsections (c)(3)(B) and (e)" and inserting "subsection (e)"; and

(B) in subsection (c)(3)(A), in the matter preceding clause (i), by striking "subsection (h)" and inserting "subsection (g)"; and

(2) in section 3522(a), by striking "(as defined in section 3601(6))". 42 USC 11842.

SEC. 5. TECHNICAL CORRECTIONS WITH RESPECT TO HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.

(a) NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE.—Section 457 of the Public Health Service Act, as amended by section 2(3)(B) of the National Institute on Deafness and Other Communication Disorders Act (Public Law 100-553), section 101(3)(B) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), and section 2613 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "disease and and" and inserting "disease and". 42 USC 285j.

(b) NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS.—Section 464D(k) of the Public Health Service Act, as added and amended by section 2(4) of the National Institute on Deafness and Other Communication Disorders Act (Public Law 100-553), section 101(4) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), and section 2613 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "90 days" and all that follows and inserting "April 1, 1989.". 42 USC 285m-4.

(c) NATIONAL CANCER INSTITUTE.—Section 413(a) of the Public Health Service Act, as amended by section 122(1)(A)(ii) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended in the second sentence by striking "Institute and and" and inserting "Institute and". 42 USC 285a-2.

(d) NATIONAL RESEARCH SERVICE AWARDS.—Section 487(d)(3) of the Public Health Service Act, as similarly amended by sections 151(2) and 635 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended to read as if the amendment made by such section 635 had not been enacted.

42 USC 288.

(e) PREVENTION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.—

(1) CORRECTION IN TITLE DESIGNATION.—Title XV of the Public Health Service Act (relating to prevention of acquired immune deficiency syndrome), as inserted after title XXIV of such Act by section 221 of the Health Omnibus Programs Extension of 1988, is amended by redesignating such title XV as title XXV.

42 USC 300ee, 300ee-11—300ee-34.

(2) CLARIFICATION WITH RESPECT TO AVAILABILITY OF APPROPRIATIONS.—Section 2507(a) of the Public Health Service Act, as added by section 221 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and amended by section 2619(e) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "The allotment" and inserting the following: "Subject to the extent of amounts made available in appropriation Acts, the allotment".

42 USC 300ee-17.

(3) CERTAIN CROSS-REFERENCE IN CONFORMING AMENDMENTS.—Section 2620(b)(3) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

42 USC 242c.

"(3) in section 305(i), by striking '2511' and inserting '2611'".

(f) IMMUNOSUPPRESSIVE DRUG THERAPY BLOCK GRANT.—

(1) CONFORMING AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Title XIX of the Public Health Service Act, as amended by section 408 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and by section 2038(1) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC prec. 300y-21.

(A) by redesignating part D as part C; and

42 USC 300y-27.

(B) in section 1937, by striking "The amendments" and all that follows through "Act" and inserting "This part".

(2) CONFORMING AMENDMENT TO HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.—Section 408(b)(1) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended by striking "part D" and all that follows and inserting the following: "part C of title XIX of the Public Health Service Act.".

42 USC 300y-21 note.

(g) SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.—

(1) IN GENERAL.—The second sentence of section 728(a) of the Public Health Service Act, as similarly amended by sections 602(b)(1) and 707(1) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and as further amended by section 2615(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "to that fiscal year" and all that follows and inserting the following: "to that fiscal year, and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year.".

42 USC 294a.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if such amendment had been enacted on November 4, 1988.

42 USC 294a note.

(h) EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—

(1) REPEAL OF INEFFECTUAL PROVISION.—Section 2615(d) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is repealed.

42 USC 295g-7.

(2) EFFECTUATION OF CONGRESSIONAL INTENT.—Section 787(a)(2)(G) of the Public Health Service Act, as added and amended by sections 611(a)(3) and 629(b) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking ", except schools of medicine, osteopathic medicine, or dentistry". 42 USC 295g-7.

(i) GRANTS FOR MINORITY EDUCATION.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 614(a) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended by striking "Section 778A" and inserting "Section 788A". 42 USC 295g-2.

(2) CORRECTION OF CERTAIN CROSS-REFERENCE.—Section 782(c)(2) of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 614(c) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "under section 788A" and all that follows and inserting the following: "under section 788B for fiscal year 1987 (as such section was in effect for such fiscal year).". 42 USC 295g-2.

(j) GRADUATE PROGRAMS IN HEALTH ADMINISTRATION.—Section 791(c)(2)(A)(i) of the Public Health Service Act, as amended by section 618(a)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "submitted," and all that follows and inserting "submitted; and". 42 USC 295h.

(k) TRAINING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.—

(1) REDESIGNATION.—Section 788B of the Public Health Service Act, as amended by section 622 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is redesignated as section 788A. 42 USC 295g-8b.

(2) CORRECTION OF CERTAIN CROSS-REFERENCE.—Section 788A of the Public Health Service Act, as redesignated by paragraph (1) of this subsection, is amended in paragraphs (1) and (2) of subsection (f) by striking "section 788(e)(4)(B)" each place such term appears and inserting "section 789(b)(4)(B)".

(l) DEFINITION OF ALLIED HEALTH PROFESSIONAL.—

(1) REPEAL OF INEFFECTUAL PROVISION.—Section 623(b)(1) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is repealed. 42 USC 292a.

(2) EFFECTUATION OF CONGRESSIONAL INTENT.—Section 701(13) of the Public Health Service Act is amended in the matter preceding subparagraph (A) by striking "an individual—" and inserting "a health professional—". 42 USC 292a.

(m) HEALTH PROFESSIONS DATA.—Section 708(h)(2) of the Public Health Service Act, as added by section 626 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and amended by section 2615(a) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows: 42 USC 292h.

"(2) With respect to reports required in subsection (d), each such report made on or after October 1, 1991, shall include a description and analysis of data collected pursuant to paragraph (1).".

(n) HEALTH CARE FOR RURAL AREAS.—

(1) REPEAL OF INEFFECTUAL PROVISION.—Section 637(b) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is repealed. 42 USC 295j.

(2) EFFECTUATION OF CONGRESSIONAL INTENT.—Title VII of the Public Health Service Act, as amended by section 637(a) of the Health Omnibus Programs Extension of 1988 (Public Law 100- 42 USC 295j.

42 USC 295j.

690) and section 714 of the Indian Health Care Amendments of 1988 (Public Law 100-713), is amended to read as if the amendment made by such section 714 had not been enacted.

(3) STRIKING OF SUPERFLUOUS COMMA.—Title VII of the Public Health Service Act, as amended by paragraph (2) of this subsection and by the second subsection (g) of section 2615 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended in section 799A(f)(4) by striking the comma.

42 USC 295j.

(o) REFERENCES WITH RESPECT TO OSTEOPATHIC MEDICINE.—Title VII of the Public Health Service Act, as amended by title VI of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and by section 2615 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC 292a *et seq.*

(1) by striking "school of medicine, dentistry, osteopathy" and "schools of medicine, dentistry, osteopathy" each place such terms appear and inserting "school of medicine, dentistry, osteopathic medicine" and "schools of medicine, dentistry, osteopathic medicine", respectively;

(2) by striking "Schools of medicine, osteopathy" each place such term appears and inserting "Schools of medicine, osteopathic medicine";

(3) by striking "schools of medicine and osteopathy", "schools of medicine or osteopathy", and "school of medicine or osteopathy", each place such terms appear and inserting "schools of medicine and osteopathic medicine", "schools of medicine or osteopathic medicine", and "school of medicine or osteopathic medicine", respectively;

(4) by striking "schools and graduate departments of medicine, nursing, osteopathy" each place such term appears and inserting "schools and graduate departments of medicine, nursing, osteopathic medicine";

(5) by striking "medical or osteopathic" each place such term precedes "schools" or "students" and inserting "medical (M.D. and D.O.)"; and

(6) by striking "medical and osteopathic" each place such term precedes "schools" or "students" and inserting "medical (M.D. and D.O.)".

(p) DETAIL TO DEPARTMENT OF DEFENSE OF COMMISSIONED OFFICERS OF PUBLIC HEALTH SERVICE.—Section 206(e) of the Public Health Service Act (42 U.S.C. 207(e)) is amended by striking "the office of Assistant Secretary of Defense for Health Affairs" and inserting "the Department of Defense".

(q) NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.—Section 822(b)(3) of the Public Health Service Act, as amended by section 703(b) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by adding a period at the end.

42 USC 296m.

(r) CERTAIN CROSS-REFERENCE IN PROGRAM OF LOAN REPAYMENTS FOR SERVICE IN CERTAIN HEALTH FACILITIES.—Section 836(h)(6)(C) of the Public Health Service Act, as added by section 714(c) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "means an intermediate care facility" and all that follows and inserting the following: "means a skilled nursing facility, as such term is defined in section 1861(j) of the Social Security Act, and an intermediate care facility, as such term is defined in section 1905(c) of such Act.".

42 USC 297b.

(s) CERTAIN CROSS-REFERENCE IN PROGRAM OF NURSING SCHOLARSHIPS.—Section 843(e)(3) of the Public Health Service Act, as added

by section 715 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "means an intermediate care facility" and all that follows and inserting the following: "means a skilled nursing facility, as such term is defined in section 1861(j) of the Social Security Act, and an intermediate care facility, as such term is defined in section 1905(c) of such Act.". 42 USC 297j.

(t) PROVISIONS WITH RESPECT TO HOMELESS INDIVIDUALS.—

(1) NULLIFICATION OF REDUNDANT ENACTMENT OF PROVISIONS WITH RESPECT TO HEALTH SERVICES.—

(A) The provisions of law specified in subparagraph (B), as similarly amended by title VIII of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and title VI of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628), are amended to read as if the amendments made by title VI of Public Law 100-628 had not been enacted.

(B) The provisions of law referred to in subparagraph (A) are—

(i) section 612(a) of the Stewart B. McKinney Homeless Assistance Act; and

(ii) section 340 of the Public Health Service Act and title V of such Act. 42 USC 290aa-3 note. 42 USC 256. 42 USC 290aa *et seq.*

(2) MENTAL HEALTH DEMONSTRATION PROGRAMS.—The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act, as amended by paragraph (1) of this subsection and by section 821 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "section 504(f)" and inserting "section 520".

(3) OPTIONAL PROVISION OF CERTAIN SERVICES.—Section 340(g) of the Public Health Service Act (42 U.S.C. 256(g)) is amended—

(A) by striking "providing" and all that follows and inserting the following: "providing to homeless individuals mental health services, dental services (including dentures), services with respect to vision, and podiatry services."; and

(B) in the subsection heading, by striking "MENTAL HEALTH" and inserting "CERTAIN".

SEC. 6. COLLEGES OF OSTEOPATHIC MEDICINE.

Section 2313(c) of the Public Health Service Act (42 U.S.C. 300cc-13(c)) is amended by inserting "and osteopathic medicine" after "schools of medicine".

SEC. 7. TECHNICAL AMENDMENT CONCERNING TIME PERIOD FOR PAYMENTS TO CERTAIN LENDERS.

Section 733(h)(2) of the Public Health Service Act (42 U.S.C. 294f(h)(2)) is amended by striking out "the eligible institution" and all that follows through the period and inserting in lieu thereof "the Secretary determines that the lender or holder has made reasonable

efforts to secure a judgment and collect on the judgment entered into pursuant to this subsection.".

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 1426:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 21, considered and passed House.
Apr. 19, considered and passed Senate, amended.
June 13, House disagreed to certain Senate amendments and concurred in others.
July 12, Senate receded from certain amendments, from another with an amendment.
July 31, House concurred in Senate amendment.

Public Law 101-94
101st Congress

An Act

To amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new United States Court of Veterans Appeals, and for other purposes.

Aug. 16, 1989
[H.R. 2727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Court of Veterans Appeals Judges Retirement Act. 38 USC 101 note.

This Act may be cited as the "Court of Veterans Appeals Judges Retirement Act".

TITLE I—JUDGES RETIREMENT AND SURVIVOR ANNUITY PROGRAM

SEC. 101. JUDGES RETIREMENT PROGRAM.

(a) RETIREMENT SYSTEM.—Chapter 72 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

"§ 4096. Retirement of judges

"(a) For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(b)(1) A judge who meets the age and service requirements set forth in the following table may retire:

"The judge has attained age:	And the years of service as a judge are at least
65	15
66	14
67	13
68	12
69	11
70	10

"(2) A judge who is not reappointed following the expiration of the term for which appointed may retire upon the completion of that term if the judge has served as a judge of the Court for 15 years or more. In order to retire under this paragraph, a judge must, not earlier than 9 months preceding the date of the expiration of the judge's term of office and not later than 6 months preceding such date, advise the President in writing that the judge is willing to accept reappointment to the Court.

"(3) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall retire.

"(c)(1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay at the rate of pay in effect at the time of retirement.

"(2) An individual who serves as a judge for less than 10 years and who retires under subsection (b)(3) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall receive retired pay at a rate equal to one-half of the rate of pay in effect at the time of retirement.

"(3) Retired pay under this subsection shall begin to accrue on the day following the day on which the individual's salary as judge ceases to accrue and shall continue to accrue during the remainder of the individual's life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge.

"(d)(1) A judge may elect to receive retired pay under subsection (c) of this section. Such an election—

"(A) may be made only while an individual is a judge (except that, in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, the election may be made at any time before the date after the day on which the individual's successor takes office); and

"(B) may not be revoked after the retired pay begins to accrue.

"(2) In the case of a judge other than the chief judge, such an election shall be made by filing notice of the election in writing with the chief judge. In the case of the chief judge, such an election shall be made by filing notice of the election in writing with the Director of the Office of Personnel Management.

"(3) The chief judge shall transmit to the Director of the Office of Personnel Management a copy of each notice filed with the chief judge under this subsection.

"(e) If an individual for whom an election to receive retired pay under subsection (c) is in effect accepts compensation for employment with the United States, the individual shall, to the extent of the amount of that compensation, forfeit all rights to retired pay under subsection (c) of this section for the period for which the compensation is received.

"(f)(1) Except as otherwise provided in this subsection, the provisions of the civil service retirement laws (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply with respect to service as a judge as if this section had not been enacted.

"(2) In the case of any individual who has filed an election to receive retired pay under subsection (c) of this section—

"(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise);

"(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to that individual under subsection (c) of this section or from any other salary, pay, or compensation payable to that individual,

for any period beginning after the day on which such election is filed; and

"(C) such individual shall be paid the lump-sum credit computed under section 8331(8) or 8401(a) of title 5, whichever applies, upon making application therefor with the Office of Personnel Management.

"(g)(1) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall certify to the President in writing that such permanent disability exists. If the chief judge retires for such a disability, the retirement of the chief judge shall not take effect until concurred in by the President. If any other judge retires for such a disability, the chief judge shall furnish to the President a certificate of disability signed by the chief judge.

"(2) Whenever the President finds that a judge has become permanently disabled and as a result of that disability is unable to perform the duties of the office, the President shall declare that judge to be retired. Before a judge may be retired under this paragraph, the judge shall be provided with a full specification of the reasons for the retirement and an opportunity to be heard. President of U.S.

"(h)(1) An individual who has filed an election to receive retired pay under subsection (c) of this section may revoke such election at any time before the first day on which retired pay would (but for such revocation) begin to accrue with respect to such individual.

"(2) Any revocation under this subsection shall be made by filing a notice of the election in writing with the Director of the Office of Personnel Management. The Office of Personnel Management shall transmit to the chief judge a copy of each notice filed under this subsection.

"(3) In the case of a revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (c) of this section;

"(B) for purposes of section 4097 of this title—

"(i) the individual shall be treated as not having filed an election under section 4097(b) of this title, and

"(ii) section 4097(e) of this title shall not apply and the amount credited to such individual's account (together with interest at 3 percent per year, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to the individual;

"(C) no credit shall be allowed for any service as a judge of the Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest;

"(D) the Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (d); and

"(E) if subparagraphs (C) and (D) of this paragraph are complied with, service on the Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(i)(1) Beginning with the next pay period after the Director of the Office of Personnel Management receives a notice under subsection

(d) of this section that a judge has elected to receive retired pay under this section, the Director shall deduct and withhold 1 percent of the salary of such judge. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Court of Veterans Appeals Judges Retirement Fund. Deductions under this subsection from the salary of a judge shall terminate upon the retirement of the judge or upon the completion of 15 years of service for which either deductions under this subsection or a deposit under subsection (j) of this section has been made, whichever occurs first.

"(2) Each judge who makes an election under subsection (d) of this section shall be considered to agree to the deductions from salary which are made under paragraph (1) of this subsection.

"(j) A judge who makes an election under subsection (d) of this section shall deposit, for service on the Court performed before the election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for the first years, not exceeding 15 years, of that service. Retired pay may not be allowed until a deposit required by this subsection has been made.

"(k) The amounts deducted and withheld under subsection (i) of this section, and the amounts deposited under subsection (j) of this section, shall be deposited in the Court of Veterans Appeals Retirement Fund for credit to individual accounts in the name of each judge from whom such amounts are received.

"§ 4097. Survivor annuities

"(a) For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(3) The term 'pay' means salary received under section 4053(e) of this title and retired pay received under section 4096(c) of this title.

"(4) The term 'retirement fund' means the Court of Veterans Appeals Retirement Fund established under section 4098 of this title.

"(5) The term 'surviving spouse' means a surviving spouse of an individual who (A) was married to such individual for at least two years immediately preceding the individual's death, or (B) is a parent of issue by the marriage.

"(6) The term 'dependent child' has the meaning given the term 'child' in section 376(a)(5) of title 28.

"(7) The term 'Member of Congress' means a Representative, a Senator, a Delegate to Congress, or the Resident Commissioner of Puerto Rico.

"(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office. Any such election shall be made in such manner as may be prescribed by the Court.

"(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to 3.5 percent of the judge's pay. Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section

shall be considered by that election to agree to the deductions from the judge's pay required by this subsection.

"(d) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge's pay and of the judge's basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge's period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge's pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

"(e) If the service of a judge who makes an election under subsection (b) of this section terminates other than pursuant to the provisions of section 4096 of this title, or if any judge ceases to be married after making the election under subsection (b) of this section and revokes (in a writing filed as provided in subsection (b) of this section) such election, the amount credited to the judge's individual account (together with interest at 3 percent per year compounded on December 31 of each year to the date of the judge's relinquishment of office) shall be returned to the judge. For the purpose of this section, the service of a judge making an election under subsection (b) of this section shall be considered to have terminated pursuant to section 4096 of this title if—

"(1) the judge is not reappointed following expiration of the term for which appointed; and

"(2) at or before the time of the expiration of that term, the judge is eligible for and elects to receive retired pay under section 4096 of this title.

"(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least 5 years of civilian service (computed as prescribed in subsection (l) of this section), for the last 5 years of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

"(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (k) of this section; or

"(B) if the judge is survived by a surviving spouse and a dependent child or children, there shall be paid to the surviving spouse an immediate annuity in an amount computed as provided in subsection (k) of this section and there shall also be

paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 20 percent of such average annual pay, divided by the number of such children; or

"(C) if the judge is not survived by a surviving spouse but is survived by a dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 40 percent of such average annual pay, divided by the number of such children.

"(2) The annuity payable to a surviving spouse under this subsection shall be terminated—

"(A) upon the surviving spouse's death; or

"(B) upon the remarriage of the surviving spouse before age 55.

"(3) The annuity payable to a child under this subsection shall be terminated upon the child's death.

"(4) In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving the spouse, the annuity of such child or children under paragraph (1)(B) of this subsection shall be recomputed and paid as provided in paragraph (1)(C) of this subsection. In any case in which the annuity of a dependent child is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived the judge.

"(g) Questions of family relationships, dependency, and disability arising under this section shall be determined in the same manner as such questions arising under chapter 84 of title 5 are determined.

"(h)(1) If—

"(A) a judge making an election under subsection (b) of this section dies while in office (i) before having rendered 5 years of civilian service computed as prescribed in subsection (l) of this section, or (ii) after having rendered 5 years of such civilian service but without a survivor entitled to annuity benefits provided by subsection (f) of this section; or

"(B) the right of all persons entitled to an annuity under subsection (f) of this section based on the service of such judge terminates before a claim for such benefits has been established,

the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year, to the date of the death of such judge) shall be paid in the manner specified in paragraph (2) of this subsection.

"(2) An amount payable under paragraph (1) of this subsection shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

"(A) To the beneficiary or beneficiaries whom the judge designated in writing filed before death with the chief judge (except

that in the case of the chief judge such designation shall be filed before death as prescribed by the Court).

"(B) To the surviving spouse of the judge.

"(C) To the child or children of the judge (and the descendants of any deceased children by representation).

"(D) To the parents of the judge or the survivor of them.

"(E) To the executor or administrator of the estate of the judge.

"(F) To such other next of kin of the judge as may be determined by the chief judge to be entitled under the laws of the domicile of the judge at the time of the judge's death.

"(3) Determination as to the surviving spouse, child, or parent of a judge for the purposes of paragraph (2) of this subsection shall be made without regard to the definitions in subsection (a) of this section.

"(4) Payment under this subsection in the manner provided in this subsection shall be a bar to recovery by any other person.

"(5) In a case in which the annuities of all persons entitled to annuity based upon the service of a judge terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year to the date of the death of the judge), the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (2) of this subsection.

"(6) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any individual based upon the service of a judge shall be paid to that individual. Any accrued annuity remaining unpaid upon the death of an individual receiving an annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

"(A) To the executor or administrator of the estate of that person.

"(B) After 30 days after the date of the death of such individual, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto.

Such payment shall be a bar to recovery by any other individual.

"(i) When a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or the claimant's estate.

"(j) Annuities under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity has accrued. An annuity under this section is not assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

"(k)(1) The annuity of the surviving spouse of a judge making an election under subsection (b) of this section shall be an amount equal to the sum of the following:

"(A) The product of—

"(i) 1.5 percent of the judge's average annual pay; and

"(ii) the sum of the judge's years of judicial service, the judge's years of prior allowable service as a Member of Congress, the judge's years of prior allowable service performed as a member of the Armed Forces, and the judge's years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5).

"(B) Three-fourths of 1 percent of the judge's average annual pay multiplied by the judge's years of allowable service not counted under subparagraph (A) of this paragraph.

"(2) An annuity computed under this subsection may not exceed 50 percent of the judge's average annual pay and may not be less than 25 percent of such average annual pay. Such annuity shall be further reduced in accordance with subsection (d) of this section (if applicable).

"(3) For purposes of this subsection, the term 'average annual pay', with respect to a judge, means the average annual pay received by the judge for judicial service (including periods in which the judge received retired pay under section 4096(d) of this title) or for any other prior allowable service during the period of three consecutive years in which the judge received the largest such average annual pay.

"(l) Subject to subsection (d) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of the judge's surviving spouse shall include the judge's years of service as a judge of the Court, the judge's years of service as a Member of Congress, the judge's years of active service as a member of the Armed Forces not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and the judge's years of any other civilian service within the purview of section 8332 of title 5.

"(m) Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse's annuity under this section shall not be credited.

"(n) A judge making an election under subsection (b) of this section shall, at the time of such election, waive all benefits under the civil service retirement laws. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 4096(d) of this title.

"(o) Whenever the salaries of judges paid under section 4053(e) of this title are increased, each annuity payable from the retirement fund which is based, in whole or in part, upon a deceased judge having rendered some portion of that judge's final 18 months of service as a judge of the Court, shall also be increased. The amount of the increase in the annuity shall be determined by multiplying the amount of the annuity on the date on which the increase in

salaries becomes effective by 3 percent for each full 5 percent by which those salaries were increased.

"§ 4098. Court of Veterans Appeals Retirement Fund

"(a) There is established in the Treasury a fund known as the Court of Veterans Appeals Retirement Fund.

"(b) Amounts in the fund are available for the payment of judges' retired pay under section 4096 of this title and of annuities, refunds, and allowances under section 4097 of this title.

"(c) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 4096 or 4097 of this title shall be deposited in the fund and credited to an individual account of the judge.

"(d) The chief judge of the Court of Veterans Appeals shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

"(e)(1) The chief judge may cause periodic examinations of the retirement fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose.

"(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'unfunded liability', with respect to any fiscal year, means the amount estimated by the chief judge to be equal to the excess (as of the close of that fiscal year) of—

"(i) the present value of all benefits payable from the fund (determined on an annual basis in accordance with section 9503 of title 31), over

"(ii) the sum of—

"(I) the present values of future deductions under sections 4096(i) and 4097(c) of this title and future deposits under sections 4096(j) and 4096(d) of this title, and

"(II) the balance in the fund as of the close of the fiscal year.

"(C) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

"(f) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States, such portions of the retirement fund as in such Secretary's judgment may not be immediately required for payments from the fund. The income derived from such investments shall constitute a part of the fund.". Securities.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 of such title is amended by adding at the end the following:

"SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

"4096. Retirement of judges.
"4097. Survivor annuities.
"4098. Court of Veterans Appeals Retirement Fund.".

SEC. 102. CONFORMING AMENDMENTS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of law, a judge who is covered by section 4096 of title 38 shall not be subject to deductions and contributions to the Fund, if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(f) A judge who is covered by section 4096 of title 38 shall be excluded from the operation of this chapter if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

(c) STANDARDS FOR REMOVAL OF JUDGES.—Section 4053(f)(1) of title 38, United States Code, is amended in the first sentence—

(1) by inserting "or" before "engaging"; and

(2) by striking out "law," and all that follows in that sentence and inserting in lieu thereof "law.".

TITLE II—PROVISIONS RELATING TO ESTABLISHMENT OF COURT OF VETERANS APPEALS

38 USC 4055 note.

SEC. 201. FACILITIES FOR THE COURT.

(a) SPACE IN THE DISTRICT OF COLUMBIA.—The Administrator of General Services shall provide suitable building space in the District of Columbia for the United States Court of Veterans Appeals as the Court's principal place of business. The Administrator shall, if necessary, arrange for temporary space for the Court if permanent space is not immediately available for the Court. The Administrator shall place a high priority on the provision of such temporary and permanent space for the Court.

(b) APPROVAL BY COURT.—Any space to be provided for the Court of Veterans Appeals under subsection (a) must be acceptable to the Court.

(c) ADDITIONAL REQUIREMENT.—Any building space provided to the Court under subsection (a) shall be adjacent to additional building space (in an amount acceptable to the Court) that can be made available to the Court in the future if needed for expansion of the facilities of the Court.

38 USC 4066 note.

SEC. 202. INTERIM PROVISION FOR FILING NOTICES OF APPEAL.

In the case of a person adversely affected by a final decision of the Board of Veterans' Appeals that is made before the date on which the United States Court of Veterans Appeals has caused to be published in the Federal Register a notice by the Court that it has commenced operations, the period prescribed under section 4066 of title 38, United States Code, within which a notice of appeal must be filed with the Court shall be extended to the end of the 30-day period beginning on the date such notice is published, if the end of that

period is later than the date that would otherwise be applicable under such section.

SEC. 203. INTERIM RULES OF THE COURT.

38 USC 4064 note.

The Federal Rules of Appellate Procedure (28 U.S.C. App.) shall be the interim rules of the United States Court of Veterans Appeals unless otherwise provided by the Court in accordance with chapter 72 of title 38, United States Code. If there is a conflict between a provision of the Federal Rules of Appellate Procedure and the procedures set forth in chapter 72 of title 38, United States Code, the procedures set forth in such chapter shall apply.

SEC. 204. EMPLOYEES OF THE COURT.

(a) EMPLOYMENT AUTHORITY.—Section 4081 of title 38, United States Code, is amended to read as follows:

"§ 4081. Employees

"(a) The Court of Veterans Appeals may appoint a clerk without regard to the provisions of title 5 governing appointments in the competitive service. The clerk shall serve at the pleasure of the Court.

"(b) The judges of the Court may appoint law clerks and secretaries, in such numbers as the Court may approve, without regard to the provisions of title 5 governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

"(c) The clerk, with the approval of the Court, may appoint necessary deputies and employees without regard to the provisions of title 5 governing appointments in the competitive service.

"(d) The Court may fix and adjust the rates of basic pay for the clerk and other employees of the Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5. To the maximum extent feasible, the Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

"(e) In making appointments under subsections (a) through (c) of this section, preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

"(f) The Court may procure the services of experts and consultants under section 3109 of title 5.

"(g) The Chief Judge of the Court may exercise the authority of the Court under this section whenever there are not at least two associate judges of the Court.

"(h) The Court shall not be considered to be an agency within the meaning of section 3132(a)(1) of title 5.".

(b) LIMITATION ON CONVERSION OF EMPLOYEES TO COMPETITIVE SERVICE.—Notwithstanding clause (1)(A) of the proviso under the heading "Court of Veterans Appeals" in chapter XI of Public Law 101-45, no employee of the United States Court of Veterans Appeals may be converted to the competitive service without the approval of the Court.

38 USC 4081 note.

(c) EFFECTIVE DATE.—Notwithstanding section 401 of the Veterans' Judicial Review Act, the authority provided by section 4081 of title 38, United States Code, as amended by subsection (a), shall take effect on the date of the enactment of this Act.

38 USC 4081 note.

TITLE III—TECHNICAL CORRECTIONS

SEC. 301. EFFECTIVE DATE FOR NEW RULE FOR REOPENING BOARD OF VETERANS' APPEALS DISALLOWED CASES.

38 USC 4051 note.

Section 401(d) of the Veterans' Judicial Review Act (Public Law 100-687; 102 Stat. 4122) is amended to read as follows:

"(d) BOARD OF VETERANS' APPEALS.—Sections 202, 203, 205, 206, and 207 shall take effect as of January 1, 1989. Section 204 shall take effect on September 1, 1989.".

SEC. 302. OTHER TECHNICAL AMENDMENTS.

(a) CROSS-REFERENCE TO NEW SECTION.—Section 3301(b)(1) of title 38, United States Code, is amended by striking out "section 4009" and inserting in lieu thereof "section 3009 or 4009".

(b) REVIEW OF COURT DECISIONS.—Section 4092(d)(1) of such title is amended by striking out "statute or".

38 USC 3301 note.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall take effect as if included in the Veterans' Judicial Review Act.

(d) REDESIGNATION OF DUPLICATE SECTION NUMBER.—(1) The section 223 of title 38, United States Code, added by section 203(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 509) is redesignated as section 224.

(2) The item relating to that section in the table of sections at the beginning of chapter 3 of that title is revised to reflect the redesignation made by paragraph (1).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NONCAREER APPOINTMENTS IN DEPARTMENT OF VETERANS AFFAIRS.

38 USC 201 note.

Section 12(c)(2) of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2642) is amended—

(1) by inserting "(A)" before "any person"; and

(2) by inserting before the period at the end the following: ", or (B) any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position which is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position".

SEC. 402. ACTING CHIEF JUDGE IN EVENT OF VACANCY.

Section 4054 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) In the event of a vacancy in the position of chief judge of the Court, the associate judge senior in service on the Court shall serve as acting chief judge unless the President designates one of the other associate judges to serve as acting chief judge, in which case the judge so designated shall serve as acting chief judge.".

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 2727 (S. 1243):

HOUSE REPORTS: No. 101-189 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 101-86 accompanying S. 1243 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Aug. 3, S. 1243 considered in Senate; proceedings vacated and H.R. 2727 considered and passed.

Public Law 101-95
101st Congress

Joint Resolution

Sept. 13, 1989
[S.J. Res. 109]

To designate the period commencing September 11, 1989, and ending on September 15, 1989, as "National Historically Black Colleges Week".

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 11, 1989, and ending on September 15, 1989, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 109:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 12, considered and passed House.

Public Law 101-96
101st Congress

Joint Resolution

Designating September 1 through 30, 1989 as "National Alcohol and Drug Treatment Month".

Sept. 15, 1989
[S.J. Res. 132]

Whereas alcohol and other drug abuse and dependence are major public health problems that are preventable and treatable;
Whereas the economic costs to society of alcohol and drug abuse in 1983 alone were over $176,000,000,000;
Whereas alcohol and drug abuse treatment provides an effective means toward independence from substance dependence and is a necessary element in solving the problems associated with alcohol and other drug abuse;
Whereas more than one-third of the families of the Nation are affected by alcoholism and an estimated 10,000,000 Americans are problem drinkers or alcoholics;
Whereas alcohol abuse during pregnancy is one of the leading causes in the Nation of mental retardation in infants and is the only preventable cause;
Whereas over 70 percent of the pediatric acquired immunodeficiency syndrome cases are related to intravenous drug use by one or both parents of the infant;
Whereas drug abuse treatment is an effective way of preventing the spread of AIDS among intravenous drug abusers,
Whereas alcoholism and drug dependence are illnesses requiring prevention, treatment, and rehabilitation through the assistance and cooperation of a broad range of Federal, State, and local health, law enforcement, and social service agencies, families, employers, employees, and organizations concerned about alcohol and other drug abuse; and
Whereas despite our national policy goal of making treatment available to all who request it, the existence of waiting lists highlights the need to increase the availability and quality of alcohol and other drug treatment services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1 through 30, 1989 is designated "National Alcohol and Drug Treatment Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved September 15, 1989.

LEGISLATIVE HISTORY—S.J. Res. 132:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 13, considered and passed Senate.
Sept. 7, considered and passed House.

Public Law 101-97
101st Congress

An Act

To amend the District of Columbia Code to limit the length of time for which an individual may be incarcerated for civil contempt in the course of a child custody case in the courts of the District of Columbia, and for other purposes.

Sept. 23, 1989
[H.R. 2136]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

District of Columbia Civil Contempt Imprisonment Limitation Act of 1989.

This Act may be cited as the "District of Columbia Civil Contempt Imprisonment Limitation Act of 1989".

SEC. 2. LIMITATION ON TERM OF INCARCERATION IMPOSED FOR CIVIL CONTEMPT IN CHILD CUSTODY CASES.

(a) SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.—Section 11-944 of the District of Columbia Code is amended—

(1) by striking "In addition" and inserting "(a) Subject to the limitation described in subsection (b), and in addition"; and

(2) by adding at the end the following new subsection:

"(b)(1) In any proceeding for custody of a minor child conducted in the Family Division of the Superior Court under paragraph (1) or (4) of section 11-1101, no individual may be imprisoned for civil contempt for more than 12 months (except as provided in paragraph (2)), pursuant to the contempt power described in subsection (a), for disobedience of an order or for contempt committed in the presence of the court. This limitation does not apply to imprisonment for criminal contempt or for any other criminal violation.

"(2) Notwithstanding the provisions of paragraph (1), an individual who is charged with criminal contempt pursuant to paragraph (3) may continue to be imprisoned for civil contempt until the completion of such individual's trial for criminal contempt, except that in no case may such an individual be imprisoned for more than 18 consecutive months for civil contempt pursuant to the contempt power described in subsection (a).

"(3)(A) An individual imprisoned for 6 consecutive months for civil contempt for disobedience of an order in a proceeding described in paragraph (1) who continues to disobey such order may be prosecuted for criminal contempt for disobedience of such order at any time before the expiration of the 12-month period that begins on the first day of such individual's imprisonment, except that an individual so imprisoned as of the date of the enactment of this subsection may be prosecuted under this subsection at any time during the 90-day period that begins on the date of the enactment of this subsection.

"(B) The trial of an individual prosecuted for criminal contempt pursuant to this paragraph—

"(i) shall begin not later than 90 days after the date on which such individual is charged with criminal contempt;

"(ii) shall, upon the request of the individual, be a trial by jury; and

"(iii) may not be conducted before the judge who imprisoned the individual for disobedience of an order pursuant to subsection (a).".

(b) DISTRICT OF COLUMBIA COURT OF APPEALS.—Section 11-741 of the District of Columbia Code is amended—

(1) by striking "In addition" and inserting "(a) Subject to the limitation described in subsection (b), and in addition"; and

(2) by adding at the end the following new subsection:

"(b)(1) In the hearing of an appeal from an order of the Superior Court of the District of Columbia regarding the custody of a minor child conducted in the Family Division of the Superior Court under paragraph (1) or (4) of section 11-1101, no individual may be imprisoned for civil contempt for more than 12 months (except as provided in paragraph (2)), pursuant to the contempt power described in subsection (a), for disobedience of an order or for contempt committed in the presence of the court. This limitation does not apply to imprisonment for criminal contempt or for any other criminal violation.

"(2) Notwithstanding the provisions of paragraph (1), an individual who is charged with criminal contempt pursuant to paragraph (3) may continue to be imprisoned for civil contempt until the completion of such individual's trial for criminal contempt, except that in no case may such an individual be imprisoned for more than 18 consecutive months for civil contempt pursuant to the contempt power described in subsection (a).

"(3)(A) An individual imprisoned for 6 consecutive months for civil contempt for disobedience of an order in a proceeding described in paragraph (1) who continues to disobey such order may be prosecuted for criminal contempt for disobedience of such order at any time before the expiration of the 12-month period that begins on the first day of such individual's imprisonment, except that an individual so imprisoned as of the date of the enactment of this subsection may be prosecuted under this subsection at any time during the 90-day period that begins on the date of the enactment of this subsection.

"(B) The trial of an individual prosecuted for criminal contempt pursuant to this paragraph—

"(i) shall begin not later than 90 days after the date on which such individual is charged with criminal contempt;

"(ii) shall, upon the request of the individual, be a trial by jury; and

"(iii) may not be conducted before the judge who imprisoned the individual for disobedience of an order pursuant to subsection (a).".

SEC. 3. EXPEDITED APPEALS PROCESS FOR INDIVIDUALS INCARCERATED FOR CONTEMPT IN CHILD CUSTODY CASES.

Section 11-721 of the District of Columbia Code is amended by adding at the end the following new subsection:

"(f) The District of Columbia Court of Appeals shall hear an appeal from an order of the Superior Court of the District of Columbia holding an individual in contempt and imposing the sanction of imprisonment on such individual in the course of a case for custody of a minor child not later than 60 days after such individual requests that an appeal be taken from that order.".

SEC. 4. REPORTS ON CIVIL CONTEMPT PROCEDURES.

(a) IN GENERAL.—(1) The Committee on Governmental Affairs of the Senate, together with the Committee on the District of Columbia of the House of Representatives, shall conduct a study of current law and procedures with respect to civil contempt in the courts of the District of Columbia.

(2) The Committee on the Judiciary of the Senate shall conduct a study of current law and procedures with respect to civil contempt in the courts of the United States.

(b) SUBMISSION OF REPORTS.—Not later than September 1, 1990, the Committees on Governmental Affairs and the Judiciary of the Senate shall each submit a report on the study conducted by each Committee under subsection (a), and shall include in such report any recommendations regarding changes in current law.

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 2 and 3 shall apply with respect to any individual imprisoned before the expiration of the 18-month period that begins on the date of the enactment of this Act for disobedience of an order or for contempt committed in the presence of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.

Approved September 23, 1989.

LEGISLATIVE HISTORY—H.R. 2136 (S. 1163):

HOUSE REPORTS: No. 101-98 (Comm. on the District of Columbia).
SENATE REPORTS: No. 101-104 accompanying S. 1163 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, 28, considered and passed House.
Sept. 7, considered and passed Senate, amended, in lieu of S. 1163.
Sept. 20, House concurred in Senate amendment with amendments.
Sept. 21, Senate concurred in House amendments.

Public Law 101-98
101st Congress

Joint Resolution

Sept. 26, 1989
[H.J. Res. 133]

Designating the week beginning September 17, 1989, as "Emergency Medical Services Week".

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel and reciprocal recognition of training and credentials by the States;

Whereas the designation of Emergency Medical Services Week will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating Emergency Medical Services Week: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 17, 1989, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 26, 1989.

LEGISLATIVE HISTORY—H.J. Res. 133 (S.J. Res. 175):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 14, considered and passed House.
Sept. 18, considered and passed Senate.

Public Law 101-99
101st Congress

An Act

To authorize appropriations for the American Folklife Center for fiscal years 1990, 1991, and 1992.

Sept. 26, 1989
[S. 1075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out "and" after "1988"; and

(2) by inserting after "1989" the following: ", $998,000 for the fiscal year ending September 30, 1990, $1,050,100 for the fiscal year ending September 30, 1991, and $1,120,000 for the fiscal year ending September 30, 1992".

Approved September 26, 1989.

LEGISLATIVE HISTORY—S. 1075 (H.R. 2346):

HOUSE REPORTS: No. 101-134 accompanying H.R. 2346 (Comm. on House Administration).
SENATE REPORTS: No. 101-30 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 2, considered and passed Senate.
Sept. 12, H.R. 2346 considered and passed House; proceedings vacated and S. 1075 passed in lieu.

Public Law 101-100
101st Congress

Joint Resolution

Sept. 29, 1989
[H.J. Res. 407]

Making continuing appropriations for the fiscal year 1990, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1990, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1989 and for which appropriations, funds or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948, as amended;

The Department of Defense Appropriations Act, 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1990;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1990;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990;

The Legislative Branch Appropriations Act, 1990;

The Military Construction Appropriations Act, 1990;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990;

The Department of Transportation and Related Agencies Appropriations Act, 1990;

The Treasury, Postal Service, and General Government Appropriations Act, 1990; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990.

(b) Appropriations made by this section shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(c) No appropriation or funds made available or authority granted pursuant to this section shall be used to initiate or resume any

project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1989.

(d) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1989, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1989, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1989, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1989: *Provided further,* That congressional operations—Senate shall be continued under the appropriation, fund, or authority granted by the Act passed by the Senate, at a rate for operations not exceeding the rate permitted by the action of the Senate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1989.

(e) Whenever an Act listed in this section has been passed by only the House as of October 1, 1989, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1989: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1989 and not included in the version passed by the House as of October 1, 1989, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1989, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1989.

(f) No provision which is included in an appropriations Act enumerated in this section but which was not included in the applicable appropriations Act for fiscal year 1989, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

(g) No appropriation or funds made available or authority granted pursuant to this section for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1989 or prior years, for the increase in production rates above those sustained with fiscal year 1989 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1989: *Provided,* That no appropriation or funds made available or authority granted

pursuant to this section for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(h) Such amounts as may be necessary for projects or activities provided for in the Energy and Water Development Appropriations Act, 1990, at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (H. Rept. No. 101-235) adopted in the House of Representatives on September 12, 1989, and in the Senate on September 14, 1989.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 25, 1989, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1990 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 107. For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,108,000,000 for fiscal year 1989, to remain available until expended.

Approved September 29, 1989.

LEGISLATIVE HISTORY—H.J. Res. 407:

HOUSE REPORTS: No. 101-249 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 26, considered and passed House.
Sept. 28, considered and passed Senate, amended. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Sept. 29, Presidential remarks and statement.

Public Law 101-101
101st Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1990, and for other purposes.

Sept. 29, 1989
[H.R. 2696]

Energy and Water Development Appropriations Act, 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1990, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $131,086,000, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1990 in the amounts specified:

Rillito River, Arizona, $350,000;
Antelope Creek, Lincoln, Nebraska, $100,000;
Elm Creek, Nebraska, $75,000;
Jeffersonville, Indiana, $125,000;
Red River Waterway, Shreveport, Louisiana, to Dangerfield, Texas, $750,000;
Sainte Genevieve, Missouri, $50,000;
Missouri River Fish and Wildlife Mitigation, Iowa, Nebraska, Kansas, and Missouri, $300,000;
Lake George, Hobart, Indiana, $100,000:

Provided further, That not to exceed $25,500,000 shall be available for obligation for research and development activities: *Provided further,* That $50,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers,

to initiate and complete a reconnaissance phase study of roadway access problems at Fishtrap Lake, Kentucky, and the purchase of property from willing sellers and relocation of owners of property so purchased: *Provided further,* That with funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design for construction of a bridge at Floyd's Fork, on Routt Road at Taylorsville Lake, Kentucky: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use, immediately upon enactment of this Act, $125,000 of the funds appropriated herein to accomplish detailed planning of the Wabash Valley Scenic Corridor at Lafayette, Indiana, under the authorized Wabash River Basin Comprehensive Study: *Provided further,* That within available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete a reconnaissance study for the Saint Lawrence Seaway and Great Lakes-Financing Navigational Improvements Study, as authorized in section 47(d) of Public Law 100-676, in accordance with the cost sharing provisions of Public Law 99-662: *Provided further,* That $150,000 of the funds herein appropriated for the Eastern North Carolina above Cape Lookout, North Carolina, study, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to conduct basic hydrologic, water quality, and land use studies of the Albemarle and Pamlico Sounds in support of the Albemarle-Pamlico Estuarine study under the National Estuarine Study Program: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, using $100,000 of the funds herein appropriated, is directed to complete preconstruction engineering and design necessary to prepare the Big and Little Sallisaw Creeks, Oklahoma, project, authorized by the Water Resources Development Act of 1976, for construction: *Provided further,* That with funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete a study to determine the feasibility of the Winton Woods, Mill Creek Lake, Ohio, project under authority of section 1135 of the Water Resources Development Act of 1986: *Provided further,* That $90,000 of the funds herein appropriated shall be used by the Army Corps of Engineers to complete a comprehensive reconnaissance study of coastal erosion controls for the Portuguese Bend landslide in the immediate, urban Los Angeles, California, area: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize funds previously appropriated under the Flood Control, Mississippi River and Tributaries account to prepare the most cost effective plan to provide the authorized level of protection for flood damage reduction for the entire city of West Memphis, Arkansas, and vicinity, without regard to frequency of flooding, drainage area, and amount of runoff: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize previously appropriated funds together with funds appropriated herein to complete in fiscal year 1990 the engineering and design on the Port Sutton Channel, Tampa Harbor, Florida, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 of the funds appropriated herein for preconstruction engineering and design of structures to restore the riverbed gradient in the vicinity

33 USC 988 note.

of Mile 206 of the Sacramento River, California, in accordance with the plan contained in a Final Feasibility Report, dated 1989, by the Glenn Colusa Irrigation District and the California Department of Fish and Game, on Fish Protection and Gradient Control Facilities: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of the funds appropriated under this heading for a comprehensive reconnaissance study to determine what improvements in the interest of water quality and environmental enhancement are advisable for Onondaga Lake, New York.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, alteration and removal of obstructive bridges, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $997,400,000, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1990 in the amounts specified:

Beaver Lake, Arkansas (Water Quality Enhancement), $1,100,000;

Red River Emergency Bank Protection, Arkansas and Louisiana, $2,000,000;

Manatee County, Florida, $5,000,000;

Maalaea Small Boat Harbor, Hawaii, $600,000;

Little Calumet River, Indiana, $2,400,000;

Ouachita River Levees, including Bawcomville Levee, Louisiana, $400,000;

Westwego to Harvey Canal, Louisiana, Hurricane Protection, $1,100,000;

Atlantic Coast of Maryland, Maryland, $8,200,000;

Cape Girardeau-Jackson, Missouri, $500,000;

Missouri National Recreation River, Nebraska and South Dakota, $620,000;

Papillion Creek and Tributaries, Nebraska, $2,500,000;

Great Egg Harbor Inlet and Peck Beach, New Jersey, $250,000;

Shinnecock Inlet, New York, $5,300,000;

Roanoke River Upper Basin, Virginia, $200,000;

Kissimmee River, Florida, $4,000,000;

Sarasota County, Florida, $2,000,000;

Roseau River (Duxby Levee), Minnesota, $200,000;

Trimble Wildlife Area, Smithville Lake, Little Platte River, Missouri, $1,570,000;

Acequias Irrigation System, New Mexico, $2,000,000;

Grays Harbor, Washington, $13,000,000;

Small Boat Harbor, Buffalo Harbor, New York, $1,000,000: *Provided further,* That notwithstanding section 902 of the Water Resources Development Act of 1986, the Secretary of the Army,

best copy available

acting through the Chief of Engineers, is directed to construct the Guadalupe River flood control project in the San Jose area using $750,000 of the funds herein appropriated: *Provided further,* That with $4,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to award a continuing contract for levee/floodwall construction and to continue, by continuing contracts, other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further,* That with $17,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further,* That with $7,850,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake structural and nonstructural flood protection measures at Matewan, West Virginia: *Provided further,* That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, Matewan, West Virginia, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further,* That with $1,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed, notwithstanding section 903(a) of the Water Resources Development Act of 1986, to construct the Mound State Park, Moundville, Alabama, project, authorized by section 608(a) of the Water Resources Development Act of 1986, in accordance with the General Design Memorandum number 1 (April 1988) of the Mobile District Engineer, and the non-Federal share of this project shall be 25 percent: *Provided further,* That with $1,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed, notwithstanding section 903(a) of the Water Resources Development Act of 1986, to construct the Fort Toulouse, Elmore County, Alabama, project, authorized by section 608(b) of the Water Resources Development Act of 1986, in accordance with the General Design Memorandum number 1 (April 1988) of the Mobile District Engineer, and the non-Federal share of this project shall be 25 percent: *Provided further,* That, notwithstanding section 903(a) of the Water Resources Development Act of 1986, $500,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, for construction of the Satilla River Basin, Georgia, project, authorized by section 1151 of Public Law 99-662: *Provided further,* That using $415,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed, immediately upon enactment of this Act, to initiate a program of applied research, in cooperation with the Tennessee Valley Authority, to help resolve the aquatic plant problem in Guntersville Lake, Tennessee River, Alabama, in accordance with the research provisions of the aquatic plant control program authorized in section 302 of Public Law 89-298: *Provided further,* That using $1,500,000 of the funds herein appropriated the

Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the O'Hare Reservoir, Elk Grove Township, Illinois, as authorized in section 401(a) of Public Law 99-662 with cost sharing in accordance with the percentages specified in section 103(a) of the Water Resources Development Act of 1986: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate remedial work on the Sacramento River Flood Control Project levees in the Sacramento Metropolitan Area with $3,000,000 herein appropriated for that purpose: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate design and construction of the Waterloo Bridges in Waterloo, Iowa, in accordance with section 835 of the Water Resources Development Act of 1986 using funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371 and the Act making further continuing appropriations for the fiscal year ending September 30, 1988, Public Law 100-202: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $9,900,000 of the total sum appropriated herein for design, testing, and construction in fiscal year 1990 of juvenile fish bypass facilities at the Little Goose, Lower Granite, McNary, Lower Monumental, Ice Harbor and The Dalles projects on the Columbia and Snake Rivers as described in the report accompanying this Act: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of the Maumee Bay State Park, Ohio, Shoreline Protection and Beach Restoration project, using funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371, and the non-Federal sponsor shall share the cost of the project in accordance with the cost sharing requirements of the Water Resources Development Act of 1986, Public Law 99-662: *Provided further,* That using funds appropriated in the Energy and Water Development Appropriation Act, 1988, Public Law 100-202, the Secretary of the Army, acting through the Chief of Engineers, shall make $150,000 available to the Kankakee River project in Illinois to acquire an icebreaking boat and equipment to be loaned to the city of Wilmington, Illinois, for a period of at least three years in accordance with section 1101(b) of the Public Law 99-662 (100 Stat. 4224): *Provided further,* That, notwithstanding section 903(a) of the Water Resources Development Act of 1986, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Hamlet City Lake, Hamlet, North Carolina, project using $3,200,000 of the funds herein appropriated: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 of the funds appropriated herein to complete a reassessment of the Manteo (Shallowbag) Bay, North Carolina, project, including a reanalysis of a sand-bypass system and the effect of stabilization measures undertaken by the State of North Carolina on the overall project: *Provided further,* That using funds previously appropriated and $13,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to construct Highway 415, Segment "C" at the Saylorville Lake, Iowa, project in accordance with terms of the relocations contract executed on June 21, 1984, between the United States Army Corps of Engineers Rock Island District Engineer and the State of Iowa: *Provided further,* That with $1,000,000 of the funds herein appropriated the Secretary of the Army, acting

through the Chief of Engineers, is directed to initiate and complete the one-time repair and rehabilitation of the Maeystown Creek gravity drainage structure through the project levee of the Harrisonville and Ivy Landing Drainage and Levee District, number 2, Illinois, subject to the cost-sharing provisions of Public Law 99-662: *Provided further,* That with $4,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to resume construction on the Wallisville Lake project in Texas, and to award continuing contracts until construction is complete under the terms and conditions signed in 1967 between the Trinity River Authority of Texas, the city of Houston, the Chambers-Liberty Counties Navigation District, and the Corps of Engineers, and as provided for in Public Law 98-63: *Provided further,* That with $5,000,000 heretofore or herein appropriated for the Cooper Lake and Channels project in Texas, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts in fiscal year 1990 at full Federal expense for additional recreation facilities at an estimated cost of $17,000,000 not exclusive to South Sulphur and Doctors Creek Parks, as is acceptable to the State of Texas: *Provided further,* That the Secretary of the Army is authorized and directed to immediately begin a reconnaissance study of the Cuyahoga River in accordance with the provisions of Public Law 99-662 using funds previously appropriated for the Cleveland Harbor, Ohio, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall use $300,000 of the funds appropriated under this heading for a flood control project on Loves Park Creek, Loves Park and vicinity, Illinois, as authorized by Public Law 99-662, section 401; and, in addition, $101,800,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project and for compliance with the directions given to the Secretary of the Army in the fiscal year 1988 and 1989 Energy and Water Development Acts, Public Laws 100-202 and 100-371, respectively, regarding the construction of this project, and the Secretary is directed to use $2,000,000 to award continuing contracts in fiscal year 1990 for construction and completion of Lock and Dam 4, Phase I, and Lock and Dam 5, Phase I; and of which $2,500,000 shall be used to acquire up to five thousand acres of land in the vicinity of the Stumpy Lake/Swan Lake/Loggy Bayou Wildlife Management area as part of the lands for the Red River Waterway project; and with funds provided in this title or previously appropriated to the Corps of Engineers, the Secretary further is directed to fund previously awarded and directed construction contracts and to award continuing contracts in fiscal year 1990 for construction and completion of each of the following features of the Red River Waterway: in Pool 1, Vick Revetment Extension; Saline Bend Dikes, Blakewood, Pump Bayou, and Grand Lakes Reinforcement and Dikes. The Federal cost for construction of the Louisiana and Arkansas Railway Bridge near Alexandria, Louisiana, authorized in Public Law 98-181 shall be increased to a limitation of $25,770,000 (July 1, 1983, price levels) in order to avoid disruption of the Colfax Creosoting Company.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $336,000,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further,* That the Secretary of the Army is directed to provide $1,000,000 from funds appropriated by Public Law 100-371 (102 Stat. 859) for Flood Control, Mississippi River and Tributaries, to the United States Department of Agriculture, Soil Conservation Service, to be expended for engineering and design of the Johns Creek project, as authorized by section 401(a) of Public Law 99-662 (100 Stat. 4124): *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with design and construction of a replacement for the Motor Vessel MISSISSIPPI using funds available under this appropriation in order to complete construction of the replacement vessel by the end of calendar year 1991: *Provided further,* That using previously appropriated funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the local interests for the Federal share of the cost of relocation of United States Highway 71 bridge in St. Landry Parish, Louisiana, carried out by local interests as authorized by section 824 of Public Law 99-662: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,500,000 of previously appropriated funds to initiate and complete construction of a land side seepage berm to correct a project deficiency at the Mississippi River, Memphis Harbor, Tennessee.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,377,504,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $20,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided,* That $100,000 of

funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That $750,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, for maintenance dredging of the Los Angeles River portion of the Los Angeles-Long Beach Harbors project: *Provided further,* That $50,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the Sauk Lake, Minnesota, project.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters, including bridges, and wetlands, $69,427,000, to remain available until expended.

REVOLVING FUND

For continued acquisition of the Corps of Engineers Automation Plan, $10,000,000, to remain available until expended (33 U.S.C. 576).

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $128,800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 150 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986, is modified to direct the Secretary of the Army, using $1,300,000 appropriated herein under the General Investigations account and funds appropriated hereafter, to complete the

design of the project so as to provide flood protection to the area protected by the existing projects from flood conditions which would occur as a result of the recurrence of Tropical Storm Agnes of 1972.

SEC. 102. The Sacramento River Flood Control Project, California, as authorized by the Flood Control Act of 1917, as amended, is further modified to direct the Secretary of the Army, acting through the Chief of Engineers, to proceed in fiscal year 1990 and in subsequent years as necessary with construction of riverbed gradient restoration structures in the vicinity of River Mile 206, Sacramento River, California, at an additional estimated cost of $6,000,000, generally in accordance with the plan contained in a report prepared by the Glenn Colusa Irrigation District and the California Department of Fish and Game, dated December 1988. Local cost-sharing is to be obtained in accordance with the flood control requirements of the Water Resources Development Act of 1986.

SEC. 103. The undesignated paragraph entitled "Sims Bayou, Texas" in section 401(a) of Public Law 99-662 (100 Stat. 4110) is amended by striking out "$126,000,000" and inserting in lieu thereof "$244,000,000", by striking out "$94,700,000" and inserting in lieu thereof "$164,000,000", and by striking out "$31,300,000" and inserting in lieu thereof "$80,000,000".

SEC. 104. The project for shoreline protection for the Atlantic Coast of Maryland (Ocean City), authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4135), is modified to authorize the Secretary to construct hurricane and storm protection measures based on the District Engineer's Post Authorization Change Notification Report dated May 1989, at a total initial cost of $71,000,000, with an estimated Federal cost of $37,000,000 and an estimated non-Federal cost of $34,000,000, and an annual cost of $2,700,000 for periodic beach nourishment over the life of the project, with an estimated annual Federal cost of $1,755,000 and an estimated annual non-Federal cost of $945,000.

SEC. 105. Notwithstanding section 110 of the Energy and Water Development Appropriation Act, 1988, Public Law 100-202, the Secretary of the Army is authorized to transfer and reassign property accountability for the headquarters aircraft of the Corps of Engineers, Serial Number 045, from the assets of the civil works revolving fund, to the military activity of the Army that the Secretary determines is appropriate, except that the aircraft shall be made available on a priority basis as necessary for activities in support of the Army's civil works mission. 33 USC 576 note.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to assume operation of the Sledge Bayou Drainage District's structure located in Quitman County, Mississippi.

SEC. 107. Section 803 of the Water Resources Development Act of 1986 (100 Stat. 4166) is amended by adding at the end thereof the following new sentence: "Notwithstanding section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a), if, before the date of the enactment of this Act, non-Federal interests complete construction and repair of the Cherry Street bridge, the Secretary shall credit toward the non-Federal share of the cost of construction of the Walnut Street bridge an amount equal to the Federal share of the cost incurred for construction and repair of the Cherry Street bridge.". Bridges.

SEC. 108. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform maintenance dredging and related activities to maintain Pump Slough from its confluence with the West Pearl River to the boat ramps in the vicinity of Interstate 59 and Crawford and Davis landings.

SEC. 109. The project for mitigation of fish and wildlife losses at the Canaveral Harbor West Basin and Approach Channel project, Florida, authorized by section 601(a) of the Water Resources Development Act of 1986 under the heading "PORT CANAVERAL HARBOR, FLORIDA" (100 Stat. 4140), is modified to authorize the Secretary to construct that part of the project consisting of reshaping of four spoil islands located in the Banana River, installation of culverts along the existing levee of the south mosquito control impoundment of Merritt Island, and rehabilitation of the existing pump station located at the southern tip of the south mosquito control impoundment, at a total cost of $838,000, with an estimated first Federal cost of $825,000 and an estimated non-Federal cost of $13,000.

SEC. 110. The undesignated paragraph of the Water Resources Development Act of 1986 (Public Law 99-662) under the heading "Roanoke River Upper Basin, Virginia" (100 Stat. 4126) is amended by striking out "$21,000,000" and all that follows in that paragraph and inserting in lieu thereof "$29,000,000, with an estimated first Federal cost of $17,700,000 and an estimated first non-Federal cost of $11,300,000, October 1988 price levels.".

SEC. 111. The project for navigation, Bonneville Lock and Dam, Oregon and Washington, authorized by the Supplemental Appropriations Act of 1985 (Public Law 99-88), the Water Resources Development Act of 1986 (Public Law 99-662), and the Supplemental Appropriations Act of 1989 (Public Law 101-45), is modified to authorize the Secretary of the Army to make available and deliver to the following Oregon and Washington ports: Port of The Dalles, Oregon; Port of Hood River, Oregon; Port of Cascade Locks, Oregon; Port of Klickitat, Washington; and Port of Skamania, Washington, excavated material surplus to the needs of the project as determined and conditioned by the Secretary of the Army without cost to the ports for such material.

Contracts.

The Secretary, or his designee, shall not make such excavated material available until each port has entered into a written agreement: (1) to provide disposal sites at no cost to the government or its agents or its contractors; (2) to provide without charge or fee all disposal site work necessary for placement of the excavated materials as it becomes available for disposal; (3) to provide all disposal site work during disposal of the excavated material such as spreading, compacting and protection of in-water fills but not including offloading from either truck or barge; (4) obtain all required State and Federal permits; and (5) to hold and save harmless the government from all damages, contractual or otherwise from the ports, but not from third-party claims.

Actions taken pursuant to this modification shall not affect the environmental studies and approvals which have been completed for the project.

SEC. 112. Section 4(t)(3) of the Water Resources Development Act of 1988 (102 Stat. 4021-4022) is amended by adding at the end of subparagraph (3)(E) the following new subparagraph:

"(F) Upon transfer of OMR&R responsibility to the city in accordance with the provisions of this subsection, the Sec-

retary shall further modify the project contract to forgive the city's OMR&R payment obligations in excess of $200,000 for the period beginning October 1, 1988, and ending September 30, 1989: *Provided,* That the total amount forgiven shall not exceed $600,000.".

Public buildings and grounds. Recreation.

SEC. 113. The lake and recreation area at Dam Site 18 of the Papillion Creek Basin Project in Nebraska shall, on and after the date of enactment of this Act, be known and designated as the "Ed Zorinsky Lake and Recreation Area". Any reference to the area containing such dam site and its lake and surroundings in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Ed Zorinsky Lake and Recreation Area.

SEC. 114. Notwithstanding section 601(b) of Public Law 99-662, the project for flood damage prevention, along the Rillito River, Pima County, Arizona, is authorized for construction in accordance with the plans described in the report of the Chief of Engineers dated January 22, 1988, at a total cost of $19,600,000 with an estimated first Federal cost of $14,600,000.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $11,530,000: *Provided,* That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain

available until expended, $662,120,000, of which $164,866,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $188,823,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further*, That $17,000,000 of the funds herein

appropriated shall be available for use for construction on the Davis Creek Dam, North Loup Division, Nebraska, and related facilities in addition to the amount requested by the Secretary of the Interior for continuing work on the North Loup Division, which funds shall remain available until expended: *Provided further,* That in accordance with Public Law 100-563, there is authorized to be appropriated under section 8, of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $15,000,000 as compensation to the Strawberry Water Users Association which shall be available only for such compensation and must be used for Strawberry Valley Reclamation Project purposes. Of the amounts appropriated hereafter (including funds previously appropriated for fiscal year 1989) under section 8 of such Act, the first $15,000,000 shall be paid to the Association. Upon receipt of such compensation, the Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of Project lands.

Nothing in this Act shall delay the transfer of Strawberry Valley Project lands under the terms and conditions of section 4 of Public Law 100-563.

During the fiscal year 1990, the Bureau is authorized to utilize funds surplus to construction needs under section 5 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620d), if available, (Bonneville Unit only), to accomplish the purposes and objectives of sections 3 and 4 of Public Law 100-563.

Operation and Maintenance

(including transfer of funds)

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $212,287,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l-6a, as amended), may be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: *Provided further,* That none of the funds appropriated in this Act shall be used to execute

43 USC 618d note.

new long-term contracts for water supply from the Central Valley Project, California, prior to October 1, 1990.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), including expenses necessary for carrying out the program, $34,122,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1990 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $31,922,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $47,983,000, of which $1,000,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

43 USC 502 note.

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of computer capacity for the Business System Acquisition project, and other capital equipment, $8,500,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 27, 1987 (16 U.S.C. 460l–6a, as amended),

respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 28 passenger motor vehicles for replacement only; acquisition of one aircraft by transfer of title without the use of appropriated funds; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467), and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for applied engineering under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation. 43 USC 377a.

43 USC 1475.

The Bureau of Reclamation may hereafter accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Bureau of Reclamation except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 of the United States Code relating to compensation for work injuries, and shall not be deemed employees of the Bureau of Reclamation except for the purposes of tort claims to the same extent as a regular employee of the Bureau of Reclamation would be under identical circumstances.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.). Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Bureau of Reclamation, Department of the Interior, shall not exceed $400 annually.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Section 210 of the Energy and Water Development Appropriations Act of 1988 is hereby deleted in its entirety. 101 Stat. 1329-119.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $2,215,466,000, to remain available until expended, of which $20,000,000 shall be available only for the following facilities: the Biomedical Research Institute, LSU Medical Center at Shreveport, Louisiana, and the Oregon Health Science University: *Provided,* That of the amount appropriated herein, $2,500,000 shall be provided to the Midwest Superconductivity Consortium at Purdue University.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services or purchase of enriched uranium from the Federal Republic of Germany whichever will minimize appropriations; purchase of passenger motor vehicles (not to exceed 25 for replacement only), $1,431,000,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,500,900,000 in fiscal year 1990, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1990 so as to result in a final fiscal year 1990 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the

Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 13, of which 10 are for replacement only and one is a police-type vehicle), $1,114,431,000, to remain available until expended: *Provided,* That none of the funds provided in this Act for the Superconducting Super Collider shall be available to finalize or implement any agreements for either in-kind or direct contributions from foreign countries until a full report on such international contributions has been provided to the Congress, unless the President or Secretary of Energy certify in writing that it is in the national interest of the United States to implement such an agreement. Funds available for the Superconducting Super Collider may be utilized to prepare agreements to allow the above report to Congress to be formulated.

Reports.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $346,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided,* That any proceeds resulting from the sale of assets purchased from the Nuclear Waste Fund shall be returned to the Nuclear Waste Fund: *Provided further,* That of the amount herein appropriated not to exceed $5,000,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, of which $1,000,000 is to be available for the University of Nevada-Reno to carry out infrastructure studies related to nuclear waste, and of which not more than $1,000,000 may be expended for geology and hydrology studies carried out by the University of Nevada system and not more than $1,000,000 may be expended for socioeconomic and transportation studies: *Provided further,* That not more than $6,000,000 may be provided to the State of Nevada, at the discretion of the Secretary of Energy, to conduct appropriate activities pursuant to the Act: *Provided further,* That not more than $5,000,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further,* That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further,* That of the amount appropriated herein, up to $10,000,000 shall be made available to the University of Nevada, Las Vegas (UNLV), to provide computing resource to the State of Nevada to carry out its independent analyses and oversight responsibilities under the Nuclear Waste Policy Act of 1982 and for use by UNLV. The funds shall be made available by direct payment to UNLV in the amount of the purchase price of a supercomputer or coupled minisupercomputers. UNLV shall take title to and assume ownership of the computer hardware and software that are purchased with these funds.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

For necessary expenses of activities related to the production, distribution, and sale of isotopes and related services, $16,243,000, to remain available until expended: *Provided,* That this amount and, notwithstanding 31 U.S.C. 3302, revenues received from the disposition of isotopes and related services shall be credited to this account to be available for carrying out these purposes without further appropriation: *Provided further,* That all unexpended balances of previous appropriations made for the purpose of carrying out activities related to the production, distribution, and sale of isotopes and related services may be transferred to this fund and merged with other balances in the fund and be available under the same conditions and for the same period of time: *Provided further,* That fees shall be set by the Secretary of Energy in such a manner as to provide full cost recovery, including administrative expenses, depreciation of equipment, accrued leave, and probable losses: *Provided further,* That all expenses of this activity shall be paid only from funds available in this fund: *Provided further,* That at any time the Secretary of Energy determines that moneys in the fund exceed the anticipated requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $9,656,034,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 208 for replacement only including 19 police-type vehicles).

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $355,056,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $150,000,000 in fiscal year 1990 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1990 so as to result in a

final fiscal year 1990 appropriation estimated at not more than $205,056,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $22,959,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,145,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for expenses of the Northeast Oregon Spring Chinook Facility and Galbraith Springs/Sherman Creek Hatcheries; and for official reception and representation expenses in an amount not to exceed $2,500. During fiscal year 1990, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $18,469,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,172,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $11,723,000 in reimbursements, to remain available until expended: *Provided*, That the continuing fund established by the Act of October 12, 1949, c. 680, title I, section 101, as amended, shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-average hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the

16 USC 825s-1 note.

deficiency occurred. Replenishment of the fund shall occur within twelve months of the month in which the funds were first expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase, maintenance, and operation of one helicopter for replacement only, $291,233,000, to remain available until expended, of which $264,457,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,564,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided*, That, the continuing fund established in Public Law 98-50 shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-normal hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the deficiency occurred. Replenishment of the continuing fund shall occur within twelve months of the month in which the funds were first expended. 43 USC 502 note.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $116,550,000, of which $11,000,000 shall remain available until expended and be available only for contractual activities: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed $116,550,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1990, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1990, so as to result in a final fiscal year 1990 appropriation estimated at not more than $0: *Provided further*, That revenues collected under the authority of section 3401 of the Omnibus Budget Reconciliation Act that have been held in suspense pending the final outcome of litigation, will be immediately credited to the general fund of the Treasury. 42 USC 7171 note.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $75,000, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

Gifts and property.

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

Schools and colleges. Women.

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Ameri-

cans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $150,000,000.

40 USC app. 401 note.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-56, section 1441, $7,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $214,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $345,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the

conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $300,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $442,100,000, to remain available until expended, of which $23,195,000 shall be derived from the Nuclear Waste Fund: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $146,850,000 in fiscal year 1990 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1990 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1990 appropriation estimated at not more than $295,250,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $2,900,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfer shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* That from this appropriation, transfer of sums may be made to other agencies of the Government

for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $200,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $276,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $121,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: *Provided further,* That the Tennessee Valley Authority may hereafter accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 of the United States Code relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

16 USC 831b note.

16 USC 831b-1.

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Nuclear Waste Negotiator, as authorized by Public Law 100-203, section 411, $2,000,000, to be derived from the Nuclear Waste Fund and to remain available until expended.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 509, $2,000,000, to be derived from the Nuclear Waste Fund and to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

Contracts. Public information.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1,

1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1990".

Approved September 29, 1989.

LEGISLATIVE HISTORY—H.R. 2696:

HOUSE REPORTS: No. 101-96 (Comm. on Appropriations) and No. 101-235 (Comm. of Conference).
SENATE REPORTS: No. 101-83 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 28, considered and passed House.
July 27, considered and passed Senate, amended.
Sept. 12, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 14, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Sept. 29, Presidential statement.

Public Law 101-102
101st Congress

Joint Resolution

Sept. 29, 1989
[H.J. Res. 204]

To designate October 1989, as "National Quality Month".

Whereas the design and manufacture of quality commercial products and goods and the provision of services of the highest quality are fundamental to the success of the United States in the world marketplace, to the improvement of the standard of living of the people of the United States, and to the security of the United States;

Whereas the United States has been a world leader in producing quality goods and services and the leadership has resulted in a world-wide market for the products of the United States;

Whereas in recent years, the leadership of the United States in producing quality goods has been challenged by foreign competition and the rate of growth of the productivity of the United States is currently less than the rate of growth of the productivity of some of the competitors of the United States;

Whereas a commitment to continuous quality improvement, using recognized quality principles and practices, has been demonstrated to be the most effective way to regain and solidify economic leadership in the world marketplace;

Whereas over the past 5 years, virtually every segment of business and industry in the United States and many units of government have adopted quality management principles and experienced resulting dramatic improvements in productivity;

Whereas the Federal Government promotes quality through such programs as the Malcolm Baldrige National Quality Award of the Department of Commerce, the Federal Quality Institute, the President's Council on Management Improvement, the Productivity Improvement Plan of the Department of Defense, and the Excellence Award for Quality and Productivity of the National Aeronautics and Space Administration;

Whereas regional quality movements have promoted quality management philosophy and quality management principles and have begun to develop a sense of quality consciousness within particular regions of the Nation;

Whereas cognizance of quality, like cognizance of safety, is an attitude that once instilled in individuals becomes ingrained;

Whereas implementation of quality principles in manufacturing and service operations increases productivity through emphasis on waste reduction, defect prevention, and improved reliability of products and services;

Whereas the American Society for Quality Control has been a leader in the development, promotion, and application of quality and quality-related technology since 1946;

Whereas the American Society for Quality Control, together with other national professional organizations, business, industry, government, and academia, is sponsoring activities to observe National Quality Month to promote awareness of the need for quality in production and services throughout the United States; and

Whereas the theme of National Quality Month will be "Quality First", to emphasize that quality is an integral part of the processes that create goods and services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "National Quality Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved September 29, 1989.

LEGISLATIVE HISTORY—H.J. Res. 204 (S.J. Res. 124):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, S.J. Res. 124 considered and passed Senate.
Sept. 19, H.J. Res. 204 considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 101-103
101st Congress

An Act

Sept. 30, 1989
[H.R. 3282]

To amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Performance Management and Recognition System Reauthorization Act of 1989.
Government organization and employees.
5 USC 5401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Performance Management and Recognition System Reauthorization Act of 1989".

SEC. 2. REAUTHORIZATION.

Section 5410 of title 5, United States Code, is amended by striking "September 30, 1989" and inserting "March 31, 1991".

SEC. 3. AMENDMENTS RELATING TO MERIT INCREASES.

(a) AMENDMENTS.—Section 5404 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "applicable" in paragraph (1) and inserting "first";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following:

"(2) the term 'second reference rate', as used with respect to the rate of basic pay of an employee, means the rate equal to the sum of—

"(A) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position held by such employee; and

"(B) two-thirds of the difference between the maximum rate of basic pay provided for such grade under such section and the minimum rate of basic pay so provided;"; and

(2) in subsection (c)—

(A) by striking "applicable" in paragraph (1)(A) and inserting "first"; and

(B) by striking subparagraph (B) of paragraph (1) and inserting the following:

"(B) If, on the day before the effective date of an increase under this section, the rate of basic pay of the employee equals or exceeds the first reference rate but does not equal or exceed the second reference rate, and the performance of such employee is rated—

"(i) at the level 2 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase; or

"(ii) at the fully successful level or the level 1 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a merit increase.

"(C) If the rate of basic pay of the employee equals or exceeds the second reference rate on the day before the effective date of an increase under this section, and the performance of such employee is rated—

"(i) at the level 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase;

"(ii) at the level 1 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a merit increase; or

"(iii) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a merit increase."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to any pay increase which becomes effective during the 18-month period beginning on that date. 5 USC 5404 note.

SEC. 4. AMENDMENTS RELATING TO PERFORMANCE AWARDS.

Section 5406(c) of title 5, United States Code, is amended—

(1) by striking subclause (III) of paragraph (2)(A)(i) and inserting the following:

"(III) shall be 1.15 percent for each of fiscal years 1989, 1990, and 1991.";

(2) in paragraph (2)(A)(ii) by striking "of the 5 fiscal years" and inserting "fiscal year"; and

(3) by adding at the end the following:

"(3) The estimate under paragraph (1)(A)(ii) for fiscal year 1991 shall not take into account any period following March 31 of that year.".

SEC. 5. PERFORMANCE IMPROVEMENT PLANS.

(a) IN GENERAL.—Section 4302a(b) of title 5, United States Code, is amended by striking paragraphs (5) and (6) and inserting the following:

"(5) procedures under which any employee whose performance has been rated below fully successful shall be given a performance improvement plan (which shall include, along with such other matters as the agency may consider appropriate, a description of the types of improvements that the employee must demonstrate to attain the fully successful level of performance) and a reasonable period of time to attain that level; and

"(6) reassigning, reducing in grade, or removing any employee who fails to attain at least the fully successful level once afforded the period under paragraph (5).

The provisions of section 4303, relating to the reduction in grade or removal of an employee for unacceptable performance, shall apply with respect to any reduction in grade or removal under paragraph (6).".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1989, and shall apply with respect to any performance determination (under section 4302a(b)(4) of title 5, United States Code) given on or after that date. 5 USC 4302a note.

SEC. 6. TEMPORARY CONTINUATION OF PROVISION RELATING TO THE SCHEDULE FOR PAYING THE LUMP-SUM CREDIT TO CERTAIN ANNUITANTS.

Section 6001(a) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) is amended by striking "October 1, 1989" and inserting "December 3, 1989".

Approved September 30, 1989.

LEGISLATIVE HISTORY—H.R. 3282:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 19, considered and passed House.
Sept. 27, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendments.

Public Law 101-104
101st Congress

Joint Resolution

Designating the week of September 24, 1989, as "Religious Freedom Week".

Oct. 2, 1989
[S.J. Res. 146]

Whereas the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguarded with eternal vigilance by all men and women of good will;

Whereas religious liberty has been endangered throughout history by bigotry and indifference;

Whereas the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the Constitution of the United States ensures religious freedom to all of the people of the United States;

Whereas at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than 1 year before the adoption of the Bill of Rights;

Whereas the letter of President Washington and the Touro Synagogue have become national symbols of the commitment of the United States to religious freedom;

Whereas throughout our Nation's history, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics, and justice;

Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas religious liberty can be protected only through the efforts of all persons of good will in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 24, 1989, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or none, may join together in support of religious tolerance and religious liberty for all.

Approved October 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 146:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 19, considered and passed House.

Public Law 101-105
101st Congress

An Act

To provide for the addition of certain parcels to the Harry S Truman National Historic Site in the State of Missouri.

Oct. 2, 1989
[H.R. 419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY ACQUISITION.

(a) NOLAND/HAUKENBERRY HOUSE AND WALLACE HOMES.—The first section of the Act entitled "An Act to establish the Harry S Truman National Historic Site in the State of Missouri, and for other purposes", approved May 23, 1983 (97 Stat. 193), is amended— 16 USC 461 note.

(1) by striking "That," and inserting "That (a)"; and

(2) by adding at the end the following:

"(b)(1) The Secretary is further authorized to acquire by any means set forth in subsection (a) the real properties commonly referred to as—

"(A) the Noland/Haukenberry house and associated lands on Delaware Street in the city of Independence, Missouri, and

"(B) the Frank G. Wallace house and the George P. Wallace house, and associated lands, both on Truman Road in the city of Independence, Missouri.

"(2) The owners of property referred to in paragraph (1) on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the improved property for a term of up to and including 25 years or, in lieu thereof, for a term ending at the death of the owner or the spouse of the owner, whichever is later. The owner shall elect the term to be reserved.

"(3) Unless a property acquired pursuant to this subsection is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner under paragraph (2).".

(b) TECHNICAL AMENDMENT.—The first sentence of section 2 of such Act is amended by striking "subsection (a)" and inserting "the first section of this Act". 16 USC 461 note.

97 Stat. 193.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of such Act is amended—

(1) by inserting before the period at the end thereof ", except for subsection (b) of the first section of this Act"; and

(2) by adding at the end the following: "There is authorized to be appropriated $250,000 to carry out subsection (b) of the first section of this Act.".

Approved October 2, 1989.

LEGISLATIVE HISTORY—H.R. 419:

HOUSE REPORTS: No. 101-19 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-114 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
Sept. 12, considered and passed Senate.

Public Law 101-106
101st Congress

An Act

To provide for the establishment of the Ulysses S. Grant National Historic Site in the State of Missouri, and for other purposes.

Oct. 2, 1989
[H.R. 1529]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ULYSSES S. GRANT NATIONAL HISTORIC SITE.

16 USC 461 note.

Julia Dent Grant.

In order to preserve and interpret for the benefit and inspiration of all Americans a key property associated with the life of General and later President Ulysses S. Grant and the life of First Lady Julia Dent Grant, knowledge of which is essential to understanding, in the context of mid-nineteenth century American history, his rise to greatness, his heroic deeds and public service, and her partnership in them, there is hereby established the Ulysses S. Grant National Historic Site near St. Louis, Missouri.

SEC. 2. PROPERTY ACQUISITION.

Gifts and property.

(a) WHITE HAVEN PROPERTY.—The Secretary of the Interior is authorized to acquire by donation the property and improvements thereon known as White Haven in the unincorporated portion of St. Louis County adjacent to Grantwood Village within the area generally depicted on the map entitled "Boundary Map, White Haven National Historic Site", numbered WHHA-80,000 and dated July 1988. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

Public information.

(b) PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation or purchase with donated or appropriated funds personal property directly associated with White Haven or President or Mrs. Grant for the purposes of the national historic site referred to in section 1.

SEC. 3. ADMINISTRATION.

The property acquired pursuant to section 1 of this Act shall be administered by the Secretary of the Interior in accordance with provisions of law generally applicable to units of the National Park

Contracts.

System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666). The Secretary is authorized to enter into cooperative agreements with adjacent landowners for the provision of such parking and safe access to the property as may be necessary for public use.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved October 2, 1989.

LEGISLATIVE HISTORY—H.R. 1529:

HOUSE REPORTS: No. 101-83 and Pt. 2 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-115 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 20, considered and passed House.
Sept. 12, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 3, Presidential statement.

Public Law 101-107
101st Congress

Joint Resolution

Designating October 6, 1989, as "German-American Day".

Oct. 3, 1989
[S.J. Res. 118]

Whereas the Senate of the United States unanimously passed joint resolutions designating October 6, 1987, and October 6, 1988, as "German-American Day";

Whereas President Ronald W. Reagan issued proclamations in 1987 and 1988 acknowledging "German-American Day" and held formal ceremonies in the Rose Garden and the Roosevelt Room of the White House;

Whereas the work and contributions to the development and culture of the United States by German-Americans, since the arrival of the first German immigrants in the United States on October 6, 1683, merits a tribute to the achievements of German-Americans;

Whereas German-Americans, as in the past, continue to contribute to the development, life, and cultural heritage of the United States, and will work for and will support the democratic principles of the Government of the United States and the freedom of all people;

Whereas such contributions should be recognized and celebrated in 1989; and

Whereas German-Americans are interested in having "German-American Day" established as an annual event on October 6: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1989, is designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 3, 1989.

LEGISLATIVE HISTORY—S.J. Res. 118:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 19, considered and passed House.

Public Law 101-108
101st Congress

An Act

Oct. 6, 1989
[H.R. 2835]

To provide for the relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, New Jersey, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION AND RECONSTRUCTION OF CERTAIN FACILITIES AT SANDY HOOK UNIT, GATEWAY NATIONAL RECREATION AREA.

In order to relocate and reconstruct the trailer court situated on parcel B, as depicted on the map numbered 646/80,004A and dated August, 1989, and to facilitate the modifications of the park's road network the Secretary of the Interior and the Secretary of Transportation are authorized to exchange the administrative jurisdiction over lands situated on parcel A (as depicted on such map) for that portion of the lands situated on parcel B not previously transferred to the Secretary of the Interior pursuant to section 2. No such transfer shall take place until after completion of a final general management plan for the Sandy Hook Unit, Gateway National Recreation Area, and until a cultural and natural resources assessment of the transfer has been completed. The Secretary of the Interior shall prepare such assessment after notice and opportunity for public comment. The Secretary of the Interior and the Secretary of Transportation are each authorized to pay approximately 50 percent of the costs of such relocation and reconstruction.

Real property.

SEC. 2. MARINE SCIENCES LABORATORY.

In order to facilitate construction of a marine sciences laboratory at the Gateway National Recreation Area, Sandy Hook, New Jersey (as authorized by Public Law 100-515), the Secretary of Transportation shall transfer to the Secretary of the Interior, without reimbursement, administrative jurisdiction over the real property, comprising approximately two acres, designated as the Marine Science Laboratory Assignment on the map of parcel B referred to in section 1.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 6, 1989.

LEGISLATIVE HISTORY—H.R. 2835:

HOUSE REPORTS: No. 101-239 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 19, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 101-109
101st Congress

An Act

To authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia.

Oct. 6, 1989
[S. 85]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to provide for the establishment of the Harpers Ferry National Monument", approved June 30, 1944 (58 Stat. 645; 16 U.S.C. 450bb), is amended by—

(1) striking "two thousand four hundred and seventy-five acres" in the first sentence and inserting "two thousand five hundred and five acres"; and

(2) inserting after the first sentence the following: "The Secretary is authorized to acquire, by donation only, approximately twenty-seven acres of land or interests therein which are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on a map entitled 'Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park,' dated April 1, 1989 and numbered 385-80056. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. When acquired, such lands or interests therein shall become a part of the park, subject to the laws and regulations applicable thereto.".

Gifts and property.

Public information.

(b) Nothing in this Act shall be deemed to prohibit the Secretary from using such measures as may be necessary to acquire a clear and marketable title, free of any and all encumbrances, to the lands identified for acquisition in paragraph (a)(2) of this Act.

16 USC 450bb note.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S. 85:

HOUSE REPORTS: No. 101-250 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-32 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 14, considered and passed Senate.
Sept. 25, considered and passed House.

Public Law 101-110
101st Congress

An Act

To provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees.

Oct. 6, 1989
[S. 1709]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government organization and employees.

SECTION 1. EXTENSIONS OF DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROGRAMS.

38 USC 620B note.

(a) RESPITE CARE.—Notwithstanding the provisions of subsection (c) of section 620B of title 38, United States Code, the authority provided by such section shall terminate on November 30, 1989.

38 USC 612 note.

(b) COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS, CHRONICALLY MENTALLY ILL VETERANS.—Notwithstanding the provisions of subsection (d) of section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322), the authority for the pilot program authorized by such section shall expire on November 30, 1989.

(c) STATE HOME CONSTRUCTION GRANTS.—Section 5033(a) of title 38, United States Code, is amended in the first sentence by striking out "1989" and inserting in lieu thereof "1990".

(d) LEAVE TRANSFERS.—The authority of the Department of Veterans Affairs under section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440) to operate a leave-transfer program for employees subject to section 4108 of title 38, United States Code, is extended through November 30, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of November 30, 1989.

5 USC 6302 note.

SEC. 2. EXTENSION OF DEPARTMENT OF VETERANS AFFAIRS HOME-LOAN FEE.

38 USC 1829 note.

Notwithstanding the provisions of subsection (c) of section 1829 of title 38, United States Code, fees may be collected under such section with respect to loans closed before December 1, 1989.

SEC. 3. EFFECTIVE DATE; RATIFICATION.

38 USC 5033 note.

(a) EFFECTIVE DATE.—The provisions of and amendments made by this Act shall take effect as of October 1, 1989.

38 USC 620B note.

(b) RATIFICATION.—Any actions of the Secretary of Veterans Affairs in carrying out the provisions of section 620B of title 38, United

States Code, section 115 of the Veterans Benefits and Services Act of 1988, section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, or section 1829 of such title, by contract or otherwise, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act are hereby ratified.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S. 1709:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 29, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 101-111
101st Congress

Joint Resolution

Oct. 6, 1989
[S.J. Res. 117]

To designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

Public Law 101-112
101st Congress

Joint Resolution

Designating October 1989 as "National Domestic Violence Awareness Month".

Oct. 6, 1989
[S.J. Res. 133]

Whereas it is estimated that a woman is battered every fifteen seconds in America;
Whereas domestic violence is the single largest cause of injury to women in the United States, affecting three million to four million women;
Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;
Whereas 30 per centum of female homicide victims in 1986 were killed by their husbands or boyfriends;
Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;
Whereas in 50 per centum of families where the wife is being abused, the children of that family are also abused;
Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;
Whereas in 1986, over three hundred and eleven thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes and the number of women and children that were sheltered by domestic violence programs increased by nearly one hundred thousand between 1983 and 1986;
Whereas for every one woman sheltered nationwide, two women in need of shelter may be turned away due to a lack of shelter space;
Whereas the nationwide efforts to help the victims of domestic violence need to be coordinated;
Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and
Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 133:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

Public Law 101-113
101st Congress

Joint Resolution

Designating October 16, 1989, and October 16, 1990, as "World Food Day".

Oct. 6, 1989
[S.J. Res. 138]

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world;

Whereas there is growing concern in the United States and around the world for environmental protection and the dangers posed to future food security from misuse and overuse of precious natural resources of land, air, and water and the subsequent degradation of the biosphere;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the food needs of Africans;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1989, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and donating food and money for such people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1989, and October 16, 1990, are designated as "World Food Day", and the

President is authorized and requested to issue a proclamation calling upon the people of the United States to observe World Food Day with appropriate ceremonies and activities, including worship services, fasting, education endeavors, and the establishment of year-round food and health programs and policies.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 138:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

Public Law 101-114
101st Congress

Joint Resolution

Oct. 6, 1989
[S.J. Res. 148]

To designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week".

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas new technologies require skills that are currently lacking in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of this century;

Whereas young people in the United States are experiencing higher than normal unemployment rates because many of them lack the skills necessary to perform the entry-level jobs that are currently available;

Whereas these young people will continue to experience higher than normal unemployment rates unless they develop the skills necessary to perform the entry-level jobs that become available;

Whereas American workers who face dislocation due to plant closures and industrial relocation need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week can serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 8, 1989, through October 14, 1989, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 148:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

Public Law 101-115
101st Congress

An Act

To authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

Oct. 13, 1989
[H.R. 1486]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATIONS FOR MARITIME ADMINISTRATION

SECTION 1. In fiscal year 1990, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1990 portion of the total of current contract authority;

(2) $3,750,000 for research and development activities, to remain available until expended, including—

(A) $2,250,000 for vessel design and shipyard studies; and

(B) $1,500,000 for other research;

(3) $33,205,000 for expenses related to manpower, education, and training, including—

(A) $23,157,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $8,670,000 for assistance to the State maritime academies and the current fleet of five training ships; and

(C) $1,378,000 for manpower and additional training;

(4) $25,966,000 for operating programs, including—

(A) $17,853,000 for general administration;

(B) $957,000 for development of water transportation systems; and

(C) $7,156,000 for use of water transportation systems; and

(5) such sums as are necessary for expenses related to national security support capabilities, including—

(A) fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force, maintenance and operations programs in support of the Ready Reserve Force, Ready Reserve Force facilities, Ready Reserve Force vessel conversions, and other programs in the National Defense Reserve Fleet; and

(B) emergency planning operations.

STUDENT INCENTIVE PAYMENT AGREEMENTS

SEC. 2. (a) Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)), is amended—

(1) in subparagraph (B), by striking "and" the second place it appears;

(2) by striking subparagraph (C); and

(3) by adding at the end the following new subparagraphs:

"(C) paid by the Secretary to the individual for the first complete or partial academic year of attendance in a lump sum of $1,200 or in amounts prorated on the basis of actual attendance, and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

"(D) paid by the Secretary, for the academic years after those years specified in subparagraph (C), as the Secretary shall prescribe while the individual is attending the academy.".

(b) Section 1304(g)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(2)), is amended by striking "apply for midshipman" and inserting in lieu thereof "accept midshipman and enlisted reserve".

(c) Section 1304(g)(3)(D) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(3)(D)), is amended by striking "to apply for an appointment as,".

(d) Section 1304(g)(4) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(4)), is amended by striking "has attended a State maritime academy for not less than 2 years" and inserting in lieu thereof "has accepted the payment described in paragraph (1)(C) of this subsection".

46 USC app. 1295c note.

(e) The amendments made by this section apply to individuals who commence attendance after December 31, 1989, at a State maritime academy in accordance with section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c).

COAST GUARD EXAMINATION REQUIREMENT

SEC. 3. (a) Section 1304(f)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(f)(1)), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program shall pass the examination administered by the Coast Guard required for issuance of a license under section 7101 of title 46, United States Code.".

46 USC app. 1295c note.

(b) The requirement set forth in subsection (f)(1)(C) of section 1304 of the Merchant Marine Act, 1936, as added by subsection (a) of this section, shall be a condition to any payment or use of any vessel received by a State maritime academy under such section 1304 after December 31, 1989.

STUDY

46 USC app. 1295c note.

SEC. 4. With the funds authorized under this Act, the Secretary of Transportation, after consultation with other agencies in the executive branch and the State, regional, and Federal maritime academies, shall submit to the Congress a study within one year to determine how currently employed training vessels, United States-flag commercial vessels, vessels in the Ready Reserve Force, and other vessels under the control of the United States Government may be used to provide training opportunities for State, regional, and Federal maritime academy students that will produce licensed graduate officers. The study shall include data on the cost effective-

ness to the United States Government; the cost impact on the affected State governments; the safety of any vessels involved; the safety of the students; the operational and scheduling impact upon the several entities involved; liability exposure; and the impact on national security sealift. The Secretary shall not implement any ship sharing program until not less than sixty days after the submission of the study to the Congress.

PAYMENTS TO MARITIME ACADEMIES

SEC. 5. Section 1304(d)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)(1)) is amended—

(1) by redesignating the existing text as subparagraph (A);

(2) by striking the second sentence of subparagraph (A) as so redesignated; and

(3) by adding at the end the following new subparagraphs:

"(B) Subject to subparagraph (C), the annual payment to such State maritime academy shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, and to such regional maritime academy shall be at least equal to the amount given the academy by all States and territories cooperating to sponsor the academy.

"(C) The amount under subparagraph (B) may not be more than $25,000, except that the amount shall be—

"(i) $100,000 to such State maritime academy if the academy meets the condition set forth in subsection (f)(2); or

"(ii) $200,000 to such regional maritime academy if the academy meets the condition set forth in subsection (f)(2).".

NATIONAL DEFENSE RESERVE FLEET

Armed Forces.

SEC. 6. Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended to read as follows:

"NATIONAL DEFENSE RESERVE FLEET

"SEC. 11. (a) The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

"(b) Except as otherwise provided by law, a vessel in the fleet may be used—

"(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); or

"(2) on the request of the Secretary of the Navy, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

"(A) testing for readiness and suitability for mission performance;

"(B) defense sealift functions for which other sealift assets are not reasonably available; and

"(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

"(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or

"(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.

"(c) The Secretary of Transportation shall not require bid, payment, performance, payment and performance, or completion bonds from contractors for repair, alteration, or maintenance of vessels of the National Defense Reserve Fleet unless—

"(1) required by law; or

"(2) the Secretary determines, after investigation, that the imposition of such bonding requirements would not preclude any responsible potential bidder or offeror from competing for award of the contract.".

WAR RISK INSURANCE

SEC. 7. (a) Section 1202 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1282), is amended by adding at the end the following new subsection:

"(c) Insurance and reinsurance for vessels may be provided by the Secretary under this title only on the condition that such vessels be available for the United States in time of war or national emergency.".

(b) Section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294), is amended by striking "1990" and substituting "1995".

NATIONAL MARITIME ENHANCEMENT INSTITUTES

46 USC app. 1121-2.

SEC. 8. (a) The Secretary of Transportation may designate National Maritime Enhancement Institutes.

(b) Activities undertaken by such an Institute may include—

(1) conducting research concerning methods for improving the performance of maritime industries;

(2) enhancing the competitiveness of domestic maritime industries in international trade;

(3) forecasting trends in maritime trade;

(4) assessing technological advancements;

(5) developing management initiatives and training;

(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

(8) fostering innovations in maritime transportation pricing; and

(9) improving maritime economics and finance.

Regulations.

(c) An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

(d) The Secretary shall designate an Institute under this section on the basis of the following criteria:

(1) the demonstrated research and extension resources available to the designee for carrying out the activities specified in subsection (b);

(2) the capability of the designee to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry;

(3) the existence of an established program of the designee encompassing research and training directed to enhancing maritime industries;

(4) the demonstrated ability of the designee to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program; and

(5) the qualification of the designee as a nonprofit institution of higher learning.

(e) The Secretary may make research grants, on an equal matching basis, to an institute from amounts appropriated pursuant to section 1(2)(B). The aggregate amount of such grants shall not exceed $100,000.

Approved October 13, 1989.

LEGISLATIVE HISTORY—H.R. 1486:

HOUSE REPORTS: No. 101-39 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-119 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 2, considered and passed House.
Sept. 21, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.

Public Law 101-116
101st Congress

Joint Resolution

Oct. 13, 1989
[S.J. Res. 81]

To designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week".

Whereas health care food service is a vital function of the provision of care and treatment of hospitalized persons;

Whereas health care food service workers, chefs, dietitians, dietary assistants, and administrators work in concert with other health care professionals to provide the best possible patient care; and

Whereas the provision of nutrition and sustenance is an essential component of the care and recovery of hospitalized persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 1 through 7, 1989, is designated as "National Health Care Food Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

Approved October 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 81:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
Sept. 28, considered and passed House.

Public Law 101-117
101st Congress

Joint Resolution

To designate October 1989 and 1990 as "National Down Syndrome Month".

Oct. 13, 1989
[S.J. Res. 122]

Whereas the past two decades have brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a condition which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome, to develop special education classes within mainstream programs in schools, to provide for vocational training in preparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas not only the improvement in educational opportunities for those with Down syndrome, but also the advancement in medical science is adding to a brighter outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 and 1990 are designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

Approved October 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 122:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 101-118
101st Congress

An Act

Oct. 17, 1989
[H.R. 2358]

To authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 4 of the joint resolution entitled "Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives", approved November 9, 1987 (2 U.S.C. 1004), is amended—

(1) by striking out "and" after "September 30, 1987),"; and

(2) by inserting after "September 30, 1989" the following: ", and $1,033,785 for the fiscal year ending September 30, 1990".

SEC. 2. PROGRAM ELEMENT REQUIREMENTS.

Section 2(a)(4) of such joint resolution (2 U.S.C. 1002(a)(4)) is amended by striking out "may" and inserting in lieu thereof "shall".

SEC. 3. AWARDS FOR PROGRAM PARTICIPATION.

Paragraphs (1), (2), and (3) of section 2(b) of such joint resolution (2 U.S.C. 1002(b) (1), (2), and (3)) are each amended by striking out "satisfy award standards" and inserting in lieu thereof "participate in the program".

Approved October 17, 1989.

LEGISLATIVE HISTORY—H.R. 2358:

HOUSE REPORTS: No. 101-135 (Comm. on House Administration).
SENATE REPORTS: No. 101-150 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 12, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 101-119
101st Congress

An Act

To provide assistance for free and fair elections in Nicaragua.

Oct. 21, 1989
[H.R. 3385]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided,* That such assistance may be made available only as follows: (1) up to $5,000,000 in assistance to internal groups, such as support for political organizations and alliances, independent elements of the media, independent labor unions, and business, civic, and professional groups through and consistent with the charter and standard operating procedures of the National Endowment for Democracy; and for support for the election process and monitoring including, but not limited to the organizations specified in proviso 2(c) below, and (2) up to $4,000,000 (a) for election support intended to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy (which may include contributions through the National Opposition Union to the Supreme Electoral Council as necessary); (b) for support for the election process and monitoring; and (c) of which not less than $400,000 shall be made available for the Council of Freely-Elected Heads of Government, and of which not less than $250,000 shall be made available for the Center for Democracy and of which not less than $400,000 shall be made available for the Center for Training and Election Promotion: *Provided further,* That the provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That the Agency for International Development shall report to the appropriate Committees of Congress prior to obligation of funds: *Provided further,* That all travel by Members of Congress conducted pursuant to the upcoming Presidential elections in Nicaragua shall be in accordance with section 1754, title 22, United States Code: *Provided further,* That it is the sense of Congress that the National Opposition Union's representative on the Supreme Electoral Council will seek to ensure that any funds going to the Supreme Electoral Council are used solely for technical electoral purposes, such as ballot boxes and ballot printing: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990.

Reports.

Approved October 21, 1989.

LEGISLATIVE HISTORY—H.R. 3385:

HOUSE REPORTS: No. 101-265, Pt. 1 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 4, considered and passed House.
Oct. 12, 13, 17, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 21, Presidential statement.

Public Law 101-120
101st Congress

An Act

Oct. 23, 1989
[H.R. 1300]

To amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Head Start Supplemental Authorization Act of 1989.
42 USC 9801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Supplemental Authorization Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by striking "$1,405,000,000" and inserting "$1,552,000,000".

Approved October 23, 1989.

LEGISLATIVE HISTORY—H.R. 1300:

HOUSE REPORTS: No. 101-12 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 21, considered and passed House.
Oct. 5, considered and passed Senate.

O

Public Law 101-121
101st Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

Oct. 23, 1989
[H.R. 2788]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $442,084,000, of which the following amounts shall remain available until expended: not to exceed $1,200,000, to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), and $22,903,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors.

FIREFIGHTING

For necessary expenses for emergency rehabilitation, forest firefighting, fire presuppression, and other emergency costs on Department of the Interior lands, $311,500,000, to remain available until expended, of which $193,761,000 is for the Bureau of Land Management, $16,250,000 is for the United States Fish and Wildlife Service, $34,464,000 is for the National Park Service, $67,025,000 is for the Bureau of Indian Affairs: *Provided,* That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $5,961,000, to remain available until expended: *Provided,* That necessary procurement documents for construction of the Oregon

Trail Visitor Center at Flagstaff Hill, Oregon shall be issued at a time that will permit issuance of a construction contract in February, 1991.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $12,610,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $64,787,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876): *Provided further,* That notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of the Interior, to remain available until expended, an amount equal to 50 per centum of timber receipts received by the Treasury from the harvesting of timber on the revested Oregon and California Railroad grant lands and the Coos Bay Wagon Road grant lands during fiscal year 1989 in excess of $174,800,000, the 1989 Oregon and California Railroad grant lands and Coos Bay Wagon Road grant lands timber receipts contained in the President's budget proposal for fiscal year 1990: *Provided further,* That this estimate of 1989 receipts shall not be subject to adjustment for the purposes of this section: *Provided further,* That such funds shall be made available concurrent with payment of fiscal year 1989 receipt amounts to counties during fiscal year 1990, and shall be in addition to any funds appropriated in this Act: *Provided further,* That this transaction will not affect, diminish, or otherwise alter the payments to be made on the basis of these receipts in accordance with the Acts of August 28, 1937 (43 U.S.C. 1181f(a)) and May 24, 1939 (43 U.S.C. 1181f-1): *Provided further,* That funds made available to the Secretary of the Interior pursuant to this provision shall be used for necessary expenses relating to the Oregon and California Railroad

grant lands and Coos Bay Wagon Road grant lands for reforestation and forest development and timber management: *Provided further,* That not later than 30 days after the submission of the President's fiscal year 1991 budget, the Director of the Bureau of Land Management shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this provision and shall include an assessment of resource outputs to be produced in fiscal year 1990, fiscal year 1991, and subsequent years, using funds made available under this provision, and a comparison of the outputs for the program areas listed, achieved in fiscal year 1990 and proposed for fiscal year 1991, with the output levels described in Bureau of Land Management resource management plans in effect at the time of the report required by this provision. Reports.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $8,406,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected. 43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually: *Provided further,* That notwithstanding the provisions of the Federal Grants and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Bureau is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals, to implement challenge cost-share programs.

43 USC 1752 note.

Contracts.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $397,956,000 of which $5,750,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $8,001,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended: *Provided,* That notwithstanding any other provision of law, a procurement for the National Wetlands Research Center shall be issued which includes the full scope of the previously issued procurement for the facility: *Provided further,* That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $58,560,000 to remain available until expended, of which $1,800,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $67,990,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $9,000,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 187 passenger motor vehicles, of which 180 are for replacement only (including 77 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further,* That notwithstanding any other provision of law, only those personnel and administrative costs directly related to acquisition of real property shall be charged against the Migratory Bird Conservation Account.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $464,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $778,419,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $55,500,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That of the funds provided herein, $500,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further* That the National Park Service shall prepare an Environmental Impact Statement in full compliance with the National Environmental Policy Act of 1969 that evaluates alternative levels of development within the

16 USC 20b note.

Appalachian Trail corridor between the Shrewsbury-Mendon town line, on the south, and the junction of the Appalachian and Long Trails north of Sherburne Pass, on the north, in Rutland County, Vermont: *Provided further,* That negotiations shall be suspended for any land acquisitions or easements in the study area and no acquisitions or easements in the study area shall be executed until 60 calendar days after the final Environmental Impact Statement is filed: *Provided further,* That the Secretary of the Interior shall take no action to give force or effect or implement in any manner the easement signed January 19, 1989, between the National Park Service and Killington, Ltd., Inc., until 60 calendar days after the final Environmental Impact Statement is filed.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $16,136,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $32,750,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1990: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1990 shall include consideration of such factors as—

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1990;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1990; and

(C) the availability of matching contributions in the State: *Provided further,* That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further,* That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to

participate in the Fund: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $199,716,000, to remain available until expended: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $12,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460*l*-10a note.

The contract authority provided for fiscal year 1990 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $88,556,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,300,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $406,000 shall be available in 1990 for administrative expenses of the State grant program: *Provided further,* That of the amount provided above, $800,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462 (e)): *Provided further,* That section 317 of Public Law 98-146 is amended by adding the following: "The land owner may also use the credits in exchange for excess lands, wherever located, under the jurisdiction of the Secretary of the Interior.".

16 USC 396f.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $9,193,000, of which $4,000,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 386 passenger motor vehicles, of which 332 shall be for replacement only, including not to exceed 285 for police-type use, 17 buses, and 5 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That any no year funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

Reports.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their

mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $484,709,000, of which $59,783,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 27 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $178,525,000, of which not less than $56,060,000 shall be available for royalty management activities: *Provided,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine clean-up activities: *Provided further,* That of the above enacted amounts, up to $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project: *Provided further,* That of the above enacted amounts, up to one-half of the increase over the fiscal year 1989 funding provided for mineral royalty audits may be used to compensate States and Indian tribes for audit activities under the provisions of sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982

(30 U.S.C. 1732, 1735): *Provided further,* That for fiscal year 1990 and each fiscal year thereafter, notwithstanding the provisions of section 201 of the Federal Oil and Gas Royalty Management Act of 1982, sections 202 through 206 of that Act shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which, for purposes of those provisions and for no other purposes, shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g): *Provided further,* That notwithstanding any other provision of law, $64,000 under this head shall be available for refunds of overpayments made by Samedan Oil Corporation in connection with certain Indian leases in Oklahoma (Case No. MMS-85-0135-IND before the Director of the Minerals Management Service) and by Bow Valley Petroleum Corporation and Mapco in connection with certain Indian leases in Utah in which the Director concurred with the claimed refund due.

Contracts.
30 USC 1731a.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $174,759,000, of which $105,035,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation: *Provided further,* That the Secretary is authorized to convey in fee the decommission Keyes Helium Plant in Keyes, Oklahoma, to the Cimarron Industrial Park Authority, a public trust of the State of Oklahoma, on or before September 30, 1990, on terms mutually agreed on between the Secretary and the Authority: *Provided further,* That prior to conveyance, the Secretary shall complete the current effort to repair asbestos insulation on piping and equipment, including cleanup and disposal of asbestos containing debris: *Provided further,* That, as a condition of conveyance, the Cimarron Industrial Park Authority shall accept full responsibility for any remedial actions with respect to hazardous substance remaining at the plant after the date of conveyance.

Oklahoma.

Hazardous materials.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the

Gifts and property.

Chemicals.
Minerals and mining.

Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $101,228,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1990: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1990 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: *Provided further,* That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

30 USC 1211 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, $192,772,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil pen-

alties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

State and local governments.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $1,035,534,000, including $54,000,000 for conversion of tribal contracts and agreements to a calendar year basis as authorized by section 204(d)(1) of Public Law 100-472 (100 Stat. 2291), and of which not to exceed $71,393,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1991, and of which $2,180,000 for litigation support shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1991: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated

services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,002,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds: *Provided further,* That $250,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That if the actual amounts required in this account for costs of the Federal Employee Retirement System in fiscal year 1990 are less than amounts estimated in budget documents, such excess funds may be transferred to "Construction" and "Miscellaneous Payments to Indians" to cover the costs of the retirement system in those accounts: *Provided further,* That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Jobs Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level.

Grants.
Close Up Foundation.

Arizona.
Employment and unemployment.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; maintenance of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $134,226,000, to remain available until expended: *Provided,* That $1,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That hereafter, notwithstanding any other provision of law, amounts collected from grantees by the Secretary as grant repayments required under the Secretary's regulations for the Housing Improvement Program shall be credited in the year collected and shall be available for obligation under the terms and conditions applicable to the Program under that year's appropriation: *Provided further,* That all obligated and unobligated

25 USC 13 note.

balances of "Road Construction" shall be merged with "Construction".

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, 99-503, 100-383, 100-512, 100-675, 100-580, 101-41, and 100-585, including funds for necessary administrative expenses, $191,864,000, to remain available until expended, of which not to exceed $12,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503: *Provided,* That notwithstanding any other provision of law, funds appropriated pursuant to Public Law 100-383 shall not be subject to the provisions of 43 U.S.C. 1606(i).

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C 640d-30), including necessary administrative expenses, $800,000, to remain available until expended.

REVOLVING FUND FOR LOANS

During fiscal year 1990, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $4,767,000, to remain available until expended: *Provided,* That during fiscal year 1990, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

MISCELLANEOUS TRUST FUNDS

Notwithstanding any other provision of law, the Secretary shall retain the amount of excess interest drawn from the Treasury during the period of January 1, 1987, to February 28, 1989, to compensate the trust funds for the amount of interest that would have been earned had all available trust funds been invested in the Treasury during the period from June 30, 1985, to December 31, 1986.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 162 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only: *Provided,* That the

Washington.
Indians.
Real property.
Conservation.

property known as "Madrona Point" located on Orcas Island, Washington, shall be acquired in trust by the United States for the Lummi Indian Tribe under the conditions that it shall be preserved in its natural condition and shall not be developed for any commerical or residential purpose, except for a caretaker dwelling, a visitor or cultural center, or the interment of human remains: *Provided further,* That now and hereafter, the tribe, by contract, may impose additional restrictions: *Provided further,* That after acquisition by the United States, the property shall permanently be subject to the civil, regulatory (not including tax) and criminal jurisdiction of the State of Washington and its political subdivisions, concurrently with the Lummi Indian Tribe: *Provided further,* That except as provided herein, such grant of jurisdiction to the State shall have the same limitations as set forth in 18 U.S.C. 1162(b).

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $76,489,000, of which (1) $73,543,000 shall be available until expended for technical assistance; maintenance assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); grants and construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,946,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That $935,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the

48 USC 1401f, 1423*l*, 1665.

48 USC 1469b.

Grants. Close Up Foundation.

Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $33,339,000, including $3,000,000 to reduce the accumulated deficit of the former Trust Territory Government: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further,* That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1990, shall be credited as an offset against fiscal year 1990 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1990: *Provided further,* That any unobligated balances for Palau government operations that remain available on the date of Compact implementation shall be used by the Department of the Interior to reduce the accumulated deficit of the Trust Territory Government.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $23,260,000, to remain available until expended, as authorized by Public Law 99-239: *Provided,* That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $51,045,000, of which not to exceed $10,000 may be for official reception and representation expenses: *Provided,* That Alaskan oil spill damage assessment shall continue at least through September 30, 1990.

Alaska. Petroleum and petroleum products.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $25,325,000.

OFFICE OF INSPECTOR GENERAL

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $20,737,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, $750,000: *Provided,* That in fiscal year 1990 and thereafter, fees collected pursuant to and as limited by section 18 of the Act shall be available to carry out the duties of the Commission, to remain available until expended.

25 USC 2717a.

OILSPILL EMERGENCY FUND

Funds made available under this head by the "Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989" shall be available up to a limit equivalent to the amount of funds appropriated by said Act for contingency planning, response, and natural resource damage assessment activities related to any discharge of oil in waters of the United States upon a determination by the Secretary of the Interior that such funds are necessary for the protection or restoration of natural resources under his jurisdiction.

Environmental protection.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That no programs funded with appropriated funds in the "Office of

Gifts and property.

the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Public buildings and grounds.

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, or volcanoes; for contingency planning subsequent to actual oilspills, response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C.

3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 108. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the Eastern Gulf of Mexico planning area of the Department of the Interior which lie south of 26 degrees North latitude and east of 86 degrees West longitude.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of publishing draft environmental impact statements until five months after the President's Outer Continental Shelf Task Force releases its report to the President on Lease Sales 91, 95 and 116 or for the conduct in fiscal year 1990 of leasing activities (including final environmental impact statements, notices of sale, receipt of bids and award of leases), or the approval or permitting of any drilling or other prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease exploration activity within the area identified by the Department of the Interior in the Draft Environmental Impact Statement (MMS 87-0032) for Lease Sale 91 in the Northern California planning area issued December, 1987; in the Calls for Information for Lease Sale 95 in the Southern California planning area, published in the Federal Register on July 9, 1987 (52 Fed. Reg. 25956) and November 17, 1988 (53 Fed. Reg. 46590); or in the Call for Information for Lease Sale 119 in the

Central California planning area, published in the Federal Register on November 16, 1988 (53 Fed. Reg. 46422).

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing activities (including notices of sale, receipt of bids and award of leases) or the approval or permitting of any drilling or other prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease exploration activity within an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree West longitude line south along that longitude line to its intersection with the line which passes between blocks 423 and 467 on Outer Continental Shelf protraction diagram NK 19-10; then southwesterly along a line 50 miles seaward of the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland to its intersection with the 38 degree North latitude line; then westerly along the 38 degree North latitude line until its approximate intersection with the seaward limit of the State of Maryland territorial sea; then northeasterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree West longitude line.

SEC. 114. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities (including but not limited to: calls for information, tract selection, environmental impact statements, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190; or of lands within the 400 meter isobath surrounding Georges Bank, identified by the Department of the Interior as consisting of the following blocks: in protraction diagram NJ 19-2, blocks numbered 12-16, 54-55 and 57-58; in protraction diagram NK 19-5, blocks numbered 744, 788, 831-832, and 1005-1008; in protraction diagram NK 19-6, blocks numbered 489-491, 532-537, 574-576, 578-581, 618-627, 661-662, 664-671, 705-716, 749-761, 793-805, and 969-971; in protraction diagram NK 19-8, blocks numbered 37-40, 80-84, 124-127, and 168-169; in protraction diagram NK 19-9, blocks numbered 13-18, 58-63, 102-105, 107-108, 146-149, 151-152, 191-193, 195-197, 235-237, 240-242, 280-282, 284-286, 324-331, 368-376, 412-420, 456-465, 500-510, 543-554, 587-594, 596-599, 631-637, 640-644, 675-688, 718-733, 762-778, 805-821, 846-865, 887-891, 894-908, 930-950, and 972-994; in protraction diagram NK 19-10, blocks numbered 474-478, 516-524, 560-568, 604-612, 647-660, 692-704, 737-748, 787-792, 830-836, 873-880, 967-968, and 1011-1012; in protraction diagram NK 19-11, blocks numbered 621-632, 665-676, 700, 709-720, 744, 753-764, 785, 797-808, 825-827, 841-852, 856-860, 869, 890-905, 907-909, 929-931, 941-945, 947-949, 973-975, and 985-989; and in protraction diagram NK 19-12, blocks numbered 452-456, 495-499, 536-537, 539-541, 575-577, 579-582, 617-621, 623-624, 661-662, 664-665, and 705-706.

Maryland.

SEC. 115. Notwithstanding any prior designation by the Secretary of the Interior pursuant to section 17 of Public Law 100-440 (102 Stat. 1743), the Secretary shall designate, within 60 days of enactment of this Act, which Department of the Interior agency compo-

nent or headquarters operation is to be relocated to Avondale, Maryland, no later than 90 days after the Administrator of General Services determines that design and alteration of the facility is completed.

SEC. 116. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with Federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 117. The provision of section 116 shall not apply if the transfer of management or control is ratified by law.

25 USC 2703 note.

SEC. 118. Notwithstanding any other provision of law, the term "Class II gaming" in Public Law 100-497, for any Indian tribe located in the State of Minnesota, includes, during the period commencing on the date of enactment of this Act and continuing for 365 days from that date, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdication over the lands on which such gaming was operated, requested the State of Minnesota, no later than 30 days after the date of enactment of Public Law 100-497, to negotiate a tribal-state compact pursuant to section 11(d)(3) of Public Law 100-497.

Effective date.

SEC. 119. This section shall be effective only on October 1, 1989. None of the funds available under this title may be used to prepare reports on contacts between employees of the Department of the Interior and Members and Committees of Congress and their staff.

SEC. 120. Section 13 of Public Law 93-531, as amended (25 U.S.C. 640d-12), is hereby amended by inserting the word "and" after the semicolon at the end of subparagraph (b)(2), by striking out the semicolon and the word "and" after the word "subsection" at the end of subparagraph (b)(3) and inserting a period in lieu thereof, and by striking out all of subparagraph (b)(4): *Provided*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is hereby amended by inserting after subsection (d) the following new subsection:

Indians.

"(e) By December 1, 1989, the Secretary of the Interior, with the advice of the Navajo Tribe and the Office of Navajo and Hopi Indian Relocation, shall submit to the Congress a conceptual framework for the expenditure of the funds authorized for the Navajo Rehabilitation Trust Fund. Such framework is to be consistent with the purposes described in subsection (d) of this section.": *Provided further*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is further amended by redesignating subsection (e) as subsection (f), and by redesignating subsection (f) as subsection (g).

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $147,182,000, to remain available until September 30, 1991.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $105,506,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further,* That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for completion of the Spokane River Centennial Trail: *Provided further,* That a grant of $6,000,000 shall be made to the National Arbor Day Foundation as a matching grant for the construction of the National Arbor Day Center in Nebraska City, Nebraska.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,149,232,000, to remain available for obligation until September 30, 1991, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601-6a): *Provided,* That appropriations in this account remaining unobligated at the end of fiscal year 1989, both annual and two-year funds, and which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 National Forest System appropriation, and shall remain available for obligation until September 30, 1991.

FOREST SERVICE FIREFIGHTING

For necessary expenses for forest fire suppression and presuppression on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire protection and emergency forest fire rehabilitation of National Forest System lands, $561,139,000, to remain available until expended: *Provided,* That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $221,960,000, to remain available until expended, of which $38,993,000 is for construction and acquisition of buildings and other facilities; and $182,967,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205, of which $1,500,000 shall be available for the Federal share of road reconstruction for the purpose of improved access to the Monongahela National Forest, West Virginia, which shall be matched on an equal basis by non-Federal participants: *Provided,* That funds becoming available in

fiscal year 1990 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $112,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $63,433,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,068,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $30,000 to remain available until expended, to be derived from the fund established pursuant to the above Act: *Provided*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Miscellaneous trust funds, Forest Service" may be transferred to and merged with this appropriation for the same time period as originally enacted.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 185 passenger motor vehicles of which 11 will be used primarily for law enforcement purposes and of which 169 shall be for replacement only, of which acquisition of 132 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 43 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for timber sales preparation to replace sales lost to fire or other

causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided,* That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1990 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended: *Provided further,* That amounts necessary shall be available from deposits into the salvage sale fund for salvage of timber damaged by Hurricane Hugo to the maximum extent possible without regard to the geographic origin of the funds.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408

Contracts.

Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to continue the Challenge Cost-Share Program.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided,* That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1989 from the harvesting of National Forest Timber in excess of

$920,000,000, the 1989 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1990: *Provided,* That such excess amount made available for the overall purposes of this section shall not exceed $65,000,000: *Provided further,* That an additional $32,000,000 shall not be subject to the per centum allocations of subsequent provisions of this section and shall be made separately available solely for implementation of the timber sales program included in this Act as described in the accompanying statement of the managers and shall be used solely for the necessary expenses of such timber sales program including, but not limited to, timber sales administration and management (including all timber support costs) and construction and design of roads: *Provided further,* That the $32,000,000 shall only be provided after all other sources of funds, appropriated and nonappropriated, have been utilized to the fullest extent possible: *Provided further,* That this estimate of 1989 receipts shall not be adjusted for the purposes of this section: *Provided further,* That such funds shall be made available during fiscal year 1990, and shall be in addition to any funds appropriated in this Act: *Provided further,* That this transaction will be made without reductions for the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further,* That funds made available to the Secretary of Agriculture pursuant to this provision shall be used for the necessary expenses, including support costs of the National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource management; 5 per centum for wilderness management; 10 per centum for reforestation and timber stand improvement; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1991 and fiscal year 1992 timber sale offerings: *Provided further,* That not later than 30 days after the submission of the President's fiscal year 1991 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1990, fiscal year 1991, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1990 and proposed for fiscal year 1991, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section. Reports.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $52,441,000 shall be

available for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1990: *Provided,* That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1990 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1989 and shall remain available until expended: *Provided further,* That this funding limitation shall not include those funds available to the Forest Service as National Forest System (except for timber sales administration and management funds), Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), Timber Receipts, or Purchaser Road Construction.

Davis Sheep Company. Idaho.

Notwithstanding any other provision of law, the Forest Service is directed to compensate Davis Sheep Company, Monteview, Idaho, for reasonable expenses incurred as a result of mortality of permitted animals and moving permitted animals from one location to another as directed by the Forest Service: *Provided,* That in no event should expenses be less than $85,000: *Provided further,* That up to an additional $27,500 is authorized if the Forest Service, in conjunction with Davis Sheep Company, determines additional losses were incurred: *Provided further,* That no funds provided in this title may be expended by the Forest Service to implement a new fee schedule or increase the fees charged for communication site use of lands administered by the Forest Service above the levels in effect on January 1, 1989.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $600,000,000 shall be made available on October 1, 1990, and shall remain available until expended, and $600,000,000 shall be made available on October 1, 1991, and shall remain available until expended: *Provided,* That projects selected pursuant to a separate general request for proposals issued pursuant to each of these appropriations shall demonstrate technologies capable of replacing, retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190, 100-202, and 100-446 as amended by this Act: *Provided further,* That the general request for proposals using funds becoming available on October 1, 1990, under this paragraph shall be issued no later than June 1, 1990, and projects resulting from such a solicitation must be selected no later than February 1, 1991: *Provided further,* That the general request for proposals using funds becoming available on October 1, 1991, under this paragraph shall be issued no later than September 1, 1991, and projects resulting from such a solicitation must be selected no later than May 1, 1992.

102 Stat. 1810.

The first paragraph under this head in Public Law 100-446 is amended by striking "$575,000,000 shall be made available on October 1, 1989" and inserting "$450,000,000 shall be made available on October 1, 1989, and shall remain available until expended, and $125,000,000 shall be made available on October 1, 1990": *Provided,* That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

With regard to funds made available under this head in this and previous appropriations Acts, unobligated balances excess to the

needs of the procurement for which they originally were made available may be applied to other procurements for which requests for proposals have not yet been issued: *Provided,* That for all procurements for which project selections have not been made as of the date of enactment of this Act no supplemental, backup, or contingent selection of projects shall be made over and above projects originally selected for negotiation and utilization of available funds: *Provided further,* That reports on projects selected by the Secretary of Energy pursuant to authority granted under this heading which are received by the Speaker of the House of Representatives and the President of the Senate less than 30 legislative days prior to the end of the first session of the 101st Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate or at the end of the session, whichever occurs later. Reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $422,062,000, to remain available until expended, of which $249,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and of which $4,000,000 shall be available for continued construction of DOE Fossil Energy building B26: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $40,900,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided,* That 35 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1990, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year: *Provided further,* That section 303 of Public Law 97-257 is further amended by changing the number for the Office of the Assistant Secretary for Fossil Energy to "715", changing the number for the Pittsburgh Energy Technology Center to "290", changing the number for the Morgan- 96 Stat. 873.

town Energy Technology Center to "275", and changing the number for the headquarters organization of the Assistant Secretary for Fossil Energy to "not less than 125"

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1989, shall be deposited in this account and immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $192,124,000, to remain available until expended: *Provided,* That sums in excess of $510,000,000 received during fiscal year 1990 as a result of the sale of products produced from Naval Petroleum Reserves Numbered 1 and 3 shall be deposited in the "SPR petroleum account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary expenses.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $413,262,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1990 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided,* That $203,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1989: *Provided further,* That $16,900,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), and implementation of steel and aluminum research authorized by Public Law 100-680: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $18,300,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,641,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $194,999,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $227,820,000, to remain available until expended: *Provided,* That an additional $108,458,000 shall be made available until expended beginning October 1, 1990: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $65,232,000, of which $1,000,000 for computer operations shall remain available until September 30, 1991, and $2,000,000 for end use energy consumption surveys shall remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects

Gifts and property.

of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

Contracts. Reports.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Loans. 42 USC 8814 note.

Notwithstanding 31 U.S.C. 3302, funds derived from the sale of assets as a result of defaulted loans made under the Department of Energy Alcohol Fuels Loan Guarantee program, or any other funds received in connection with this program, shall hereafter be credited to the Biomass Energy Development account, and shall be available solely for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program for loans guaranteed prior to January 1, 1987

42 USC 8814 note.

Unobligated balances available in the "Alternative fuels production" account may hereafter be used for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program, subject to the determination by the Secretary of Energy that such unobligated funds are not needed for carrying out the purposes of the Alternative Fuels Production program: *Provided,* That the use of these unobligated funds for payment of defaulted loans and associated costs shall be available only for loans guaranteed prior to January 1, 1987: *Provided further,* That such funds shall be used only after the unobligated balance in the Department of Energy Alcohol Fuel Loan Guarantee reserve has been exhausted.

Contracts.

Annual appropriations made in this Act and previous Interior and Related Agencies Appropriations Acts shall be available for obligations in connection with contracts issued by the Department of Energy for supplies and services for periods not in excess of twelve months beginning at any time during the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXV and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and

aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,185,910,000, including $16,000,000 for conversion of tribal contracts and agreements to a calendar year basis as authorized by section 204(d)(1) of Public Law 100-472 (100 Stat. 2291), together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc-2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further,* That $17,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further,* That of the funds provided, $3,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1991: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100-713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

Reports.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation

facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $70,996,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with

25 USC 1681.

the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $74,149,000 of which $55,041,000 shall be for subpart 1 and $16,361,000 shall be for subparts 2 and 3: *Provided,* That $1,600,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1991: *Provided further,* That appropriations for subpart 2 remaining unobligated at the end of fiscal year 1989, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 Indian Education appropriation and shall remain available for obligation until September 30, 1990.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $36,818,000, to remain available until expended: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: *Provided further,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, Navajo and Hopi Indian Relocation Commission" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, part A), $4,350,000, of which not to exceed $350,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund, of which $100,000 shall be transferred immediately from the Institute endowment fund to the Institute for use in Institute oper-

ations: *Provided,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $228,553,000, of which not to exceed $2,176,000 for the instrumentation program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $6,500,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $26,769,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Restoration and renovation of buildings, Smithsonian Institution" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

Contracts.

CONSTRUCTION

For necessary expenses for construction, $8,320,000, to remain available until expended: *Provided,* That notwithstanding any other

provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $40,712,000, of which not to exceed $2,370,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $1,805,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price. Contracts.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $4,700,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $144,105,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided,* That not less than thirty days prior to the award of any direct grant to the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, North Carolina, or for the Institute of Contemporary Art at the University of Pennsylvania, the National Endowment for the Arts shall submit to the Committees on Appropriations of the House and Senate a notification of its intent to make such an award: *Provided further,* That said notification shall delineate the purposes of the award which is proposed to be made and the specific criteria used by the Endowment to justify selection of said award.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,150,000, to remain available until September 30, 1991, to the National Endowment for the Arts, of which $15,150,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $132,430,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $4,200,000 for the Office of Preservation shall remain available until September 30, 1991.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $26,700,000, to remain available until September 30, 1991, of which $14,700,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and

devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $22,675,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided,* That the National Museum Services Board shall not meet more than three times during fiscal year 1990.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $516,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $5,500,000: *Provided,* That Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, is amended further by striking "$5,000,000" and inserting in lieu thereof "$7,500,000".

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,920,000: *Provided,* That none of the funds under this head may be used to process comments on undertakings of Federal agencies, as specified in sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, on grants or contracts to institutions or facilities whose main activity is the conduct of scientific research and such agencies shall be relieved from the requirement of seeking comments on such undertakings unless requested in writing by the grantee: *Provided further,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

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NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $3,133,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1991.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,375,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,150,000, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $5,000,000, pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92-576, as amended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $2,315,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

TITLE III—GENERAL PROVISIONS

Contracts.

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expendi-

tures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete: *Provided*, That— 20 USC 954 note.

(a) None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including but not limited to, depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political, or scientific value.

(b) It is the sense of the Congress:

(1) That under the present procedures employed for awarding National Endowment for the Arts grants, although the National Endowment for the Arts has had an excellent record over the years, it is possible for projects to be funded without adequate review of the artistic content or value of the work.

(2) That recently works have been funded which are without artistic value but which are criticized as pornographic and shocking by any standards.

(3) That censorship inhibits and stultifies the full expression of art.

(4) That free inquiry and expression is reaffirmed. Therefore, be it resolved:

(A) That all artistic works do not have artistic or humanistic excellence and an application can include works that possess both nonexcellent and excellent portions.

(B) That the Chairman of the National Endowment for the arts has the responsibility to determine whether such an application should be funded.

(C) That the National Endowment for the Arts must find a better method to seek out those works that have artistic excellence and to exclude those works which are without

any redeeming literary, scholarly, cultural, or artistic value.

(D) That a commission be established to review the National Endowment for the Arts grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than "substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence" (20 U.S.C. 954(c)(1)) and if so, then what other standards. The criteria to be considered by the commission shall include but not be limited to possible standards where (a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; (b) the work depicts or describes in a patently offensive way, sexual conduct; and (c) the work, taken as a whole, lacks serious artistic and cultural value.

Establishment.

(c)(1) There is hereby established a temporary Independent Commission for the purpose of—

(A) reviewing the National Endowment for the Arts grant making procedures, including those of its panel system; and

(B) considering whether the standard for publicly funded art should be different than the standard for privately funded art.

(2) The Commission shall be composed of twelve members as follows:

(A) four members appointed by the President;

(B) four members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(C) four members appointed by the President upon the recommendation of the President pro tempore of the Senate in consultation with the minority leader of the Senate;

(D) the chairman shall be designated by vote of the Commission members; and

(E) a quorum for the purposes of conducting meetings shall be seven.

(3) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under 5 U.S.C. 5703.

(4) The Commission may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

Reports.

(5) The Commission shall issue a report to the Speaker of the House of Representatives and the President of the Senate no later than 180 days after the date of enactment of this Act.

(6) The Commission shall expire on September 30, 1990.

(7) Expenses of the Commission not to exceed $250,000, including administrative support, shall be furnished by the National Endowment for the Arts.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 308. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 309. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

Employment and unemployment.

SEC. 310. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

Contracts. State and local governments. Disaster assistance.

SEC. 311. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 312. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however,* That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further,* That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

16 USC 1604 note.

SEC. 313. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting

Forests and forest products.

of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Wages. Government organization and employees.

SEC. 314. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

25 USC 1300i-8.

SEC. 315. Section 9(a)(3) of Public Law 100-580 (102 Stat. 2932) is amended by inserting after the term "Council." the following: "The Yurok Transition Team may receive grants and enter into contracts for the purpose of carrying out this section and section 10(a) of this Act. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization.": *Provided,* That using $750,000 appropriated in the Energy and Water Development Appropriations Act, 1990, under "General Investigations, Corps of Engineers—Civil", the Secretary of the Army, acting through the Chief of Engineers, is directed to continue engineering and design of the McCook and Thornton Reservoirs, which are features of the Chicagoland Underflow Plan: *Provided further,* That with respect to claims resulting from the performance of functions, during fiscal year 1990 only, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1990, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by Title V, Part B—Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided further,* That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further,* That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further,* That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

Claims.

Claims.

National Forest System. Forests and forest products. Environmental protection.

SEC. 316. Effective sixty days after enactment of this Act, the Forest Service is directed to assure an immediate supply of timber from the Kootenai National Forest and to protect the environment: *Provided,* That pending implementation of the Forest Service's final agency action on the Upper Yaak Decision Area, as defined in the Upper Yaak Draft Environmental Impact Statement, the Forest Service is directed to expeditiously prepare, offer, and supervise the harvest of timber from the lodgepole pine timber type, as defined in the Upper Yaak Draft EIS, in the Upper Yaak Decision Area: *Provided further,* That adequate environmental assessments for

certain timber sales in the Upper Yaak Decision Area have been completed and are adequate, decision notices have been issued, no appeals have been filed, and the time period for appeals as specified in Forest Service regulations has expired: *Provided further,* That the Forest Service actions taken pursuant to this section shall comply with the Kootenai National Forest Plan: *Provided further,* That no construction of new system roads shall be permitted in the Upper Yaak River Drainage: *Provided further,* That this section does not in any manner represent a judgment upon the legal adequacy or in any way affect the final decision made in the development or implementation of the Upper Yaak Final EIS.

SEC. 317. Section 320 of Public Law 98-473 (98 Stat. 1974) as amended by section 316 of Public Law 100-446 (102 Stat. 1826) is further amended by deleting the period and inserting ": *Provided,* That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act, as amended (25 U.S.C. 450 et seq.), under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.". 5 USC 5911 note.

SEC. 318. (a) From funds appropriated under this Act or otherwise made available— National Forest System. Conservation. Forests and forest products. Oregon. Washington. Birds.

(1) The Forest Service shall offer, notwithstanding the provisions of the Federal Timber Contract Payment Modification Act of 1984 (16 U.S.C. 618(a)(5)(C)), an aggregate timber sale level of seven billion seven hundred million board feet of net merchantable timber from the national forests of Oregon and Washington for fiscal years 1989 and 1990. Such timber sales shall be consistent with existing land and resource management plans or land and resource management plans as approved except, in the case of the Mapleton Ranger District of the Siuslaw National Forest, Oregon, such sales shall be consistent with the preferred alternative of the draft land and resource management plan and accompanying draft environmental impact statement dated Octrober 1, 1986, pending approval of a final land and resource management plan for the Siuslaw National Forest: *Provided,* That of the seven billion seven hundred million board foot aggregate timber sale level for fiscal years 1989 and 1990, timber sales offered from the thirteen national forests in Oregon and Washington known to contain northern spotted owls shall meet an aggregate timber sale level for fiscal years 1989 and 1990 of five billion eight hundred million board feet of net merchantable timber: *Provided further,* That the sales volume shall be distributed in the same proportion between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volume for fiscal years 1986 through 1988.

(2) The Bureau of Land Management shall offer such volumes as are required in fiscal year 1990 to meet an aggregate timber sale level of one billion nine hundred million board feet for fiscal years 1989 and 1990 from its administrative districts in western Oregon.

(b)(1) In accordance with subsection (b)(2) of this section, all timber sales from the thirteen national forests in Oregon and Washington known to contain northern spotted owls prepared or offered pursuant to this section shall minimize fragmentation of the most eco- Oregon. Washington.

logically significant old growth forest stands. "Old growth forest stands" are defined as those stands meeting the criteria according to Forest Service Research Publication Numbered PNW-447. In those instances where the Forest Service, after consultation with the advisory boards established pursuant to subsection (c) of this section, determines that the definition in Forest Service Research Publication Numbered PNW-447 is not fully applicable in national forests known to contain northern spotted owls, the Forest Service shall use old-growth definitions contained in its Pacific Northwest Regional Guide.

(2) To the extent that fragmentation of ecologically significant old growth forest stands is necessary to meet the timber sale levels directed by subsection (a)(1) of this section, the Forest Service shall minimize such fragmentation in the ecologically significant old growth forest stands on a national forest-by-national forest basis based on the Forest Service's discretion in determining the ecologically significant stands after considering input from the advisory boards created pursuant to subsection (c) of this section. The habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas (SOHAs) described in subsection (b)(3) of this section shall be considered an important factor in the identification of ecologically significant old growth forest stands.

(3) No timber sales offered pursuant to this section from the thirteen national forests in Oregon and Washington known to contain northern spotted owls may occur within SOHAs identified pursuant to the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 as adjusted by this subsection:

(A) For the Olympic Peninsula Province, which includes the Olympic National Forest, SOHA size is to be 3,200 acres;

(B) For the Washington Cascades Province, which includes the Mt. Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford-Pinchot National Forests, SOHA size is to be 2,600 acres;

(C) For the Oregon Cascades Province, which includes the Mt. Hood, Willamette, Rogue River, Deschutes, Winema, and Umpqua National Forests, SOHA size is to be 1,875 acres;

(D) For the Oregon Coast Range Province, which includes the Siuslaw National Forest, SOHA size is to be 2,500 acres; and

(E) For the Klamath Mountain Province, which includes the Siskiyou National Forest, SOHA size is to be 1,250 acres.

(F) All other standards and guidelines contained in the Chief's Record of Decision are adopted.

(4) In planning for the preparation and offer of timber sales authorized in subsection (a)(1) of this section, the Forest Service, to the extent possible in areas proximate to SOHA sites identified in subsection (b)(3) of this section, should exercise discretion in selecting sites and/or silvicultural prescriptions in order to retain spotted owl habitat characteristics in such areas. The Forest Service should consider the relative location and quality of such areas contiguous to the SOHAs and should give higher priority to preparing and offering sales in areas of lower quality and less important location than to areas of greater quality and more important location relative to the SOHAs.

(5) No timber sales offered pursuant to this section on Bureau of Land Management lands in western Oregon known to contain

northern spotted owls shall occur within the 110 areas identified in the December 22, 1987 agreement, except sales identified in said agreement, between the Bureau of Land Management and the Oregon Department of Fish and Wildlife. Not later than thirty days after enactment of this Act, the Bureau of Land Management, after consulting with the Oregon Department of Fish and Wildlife and the United States Fish and Wildlife Service to identify high priority spotted owl area sites, shall select an additional twelve spotted owl habitat areas. No timber sales may be offered in the areas identified pursuant to this subsection during fiscal year 1990.

(6)(A) Without passing on the legal and factual adequacy of the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl Guidelines and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 or the December 22, 1987 agreement between the Bureau of Land Management and the Oregon Department of Fish and Wildlife for management of the spotted owl, the Congress hereby determines and directs that management of areas according to subsections (b)(3) and (b)(5) of this section on the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls is adequate consideration for the purpose of meeting the statutory requirements that are the basis for the consolidated cases captioned Seattle Audubon Society et al., v. F. Dale Robertson, Civil No. 89-160 and Washington Contract Loggers Assoc. et al., v. F. Dale Robertson, Civil No. 89-99 (order granting preliminary injunction) and the case Portland Audubon Society et al., v. Manuel Lujan, Jr., Civil No. 87-1160-FR. The guidelines adopted by subsections (b)(3) and (b)(5) of this section shall not be subject to judicial review by any court of the United States.

(B) The Forest Service is directed to review and revise as appropriate the decision adopted in the December 1988 Record of Decision referenced in subsection (b)(6)(A) of this section and shall consider any new information gathered subsequent to the issuance of the Record of Decision, including the interagency guidelines for conservation of northern spotted owls developed by the Interagency Scientific Committee to address conservation of the northern spotted owl. This review, and any resulting changes to the December 1988 decision determined to be necessary by the Forest Service are to be completed and in effect not later than September 30, 1990.

(c)(1) The Secretaries of Agriculture and the Interior shall name advisory boards on a national forest-by-national forest and Bureau of Land Management district-by-district basis which shall be comprised of not more than seven individuals who, in the appropriate Secretary's judgment, represent a diversity of views. In the process of selecting individuals to serve on the advisory boards, the Secretaries shall make every effort to recognize the diversity of views and perspectives and allow parties which represent a cross-section of those views to participate in making recommendations in the selection of board members, provided, that every effort will be made to ensure the advisory boards are comprised of an equal number of representatives of environmental and business concerns. The advisory boards shall be named not later than thirty days after enactment of this Act. The advisory boards shall provide recommendations to the Forest Service and the Bureau of Land Management in reviewing prospective timber sales which shall meet the timber sale levels directed by this section prior to their offer.

The advisory boards shall present their advice within fifteen or forty-five days after receipt of the necessary review documents. The fifteen-day period applies to single sales and the forty-five-day period applies to multiple sales. The members of the advisory boards authorized by this section shall serve without compensation or reimbursement of expenses. The Forest Service and the Bureau of Land Management are authorized to use available funds for the services of professional, independent facilitators to assist in the work of the advisory boards.

(2) The Forest Service and Bureau of Land Management shall consider the recommendations of the advisory boards once such boards are established pursuant to this section, including any suggested modifications of individual sales. The Forest Service and Bureau of Land Management shall also consider recommendations made by the United States Fish and Wildlife Service on those timber sales conferred upon under section 7(a)(4) or, if the spotted owl is listed as a threatened or endangered species, consult under section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536(a)(2) and (a)(4)) prior to the offer of any subsequent timber sale in fiscal year 1990. These recommendations shall be considered regardless of whether the agreement provided in subsection (f)(1) of this section has been reached, entered into, and accepted by the relevant court. Adoption or rejection of such recommended modifications shall not require preparation of additional environmental documents, notwithstanding any other provision of law.

(d) Notwithstanding any other provision of law, there shall be not more than one level of administrative appeal of any decision by the Forest Service or the Bureau of Land Management to undertake any activity directed by this section for timber sales to be prepared, advertised, offered, and awarded during fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. If an administrative stay is granted in any such appeal the Regional Forester or the Interior Board of Land Appeals shall issue a final decision on the merits within forty-five days of the date of issuance of such stay. Notwithstanding any other provision of law, any party seeking to challenge a decision made after the date of enactment of this Act to prepare, advertise, offer, or award a timber sale in fiscal year 1990 from the thirteen national forests and Bureau of Land Management lands in western Oregon known to contain northern spotted owls need not exhaust their administrative remedies prior to filing suit. Nothing in this subsection shall alter the administrative appeal requirements of the Forest Service or Bureau of Land Management.

(e) Nothing in this section shall affect interagency cooperation among the Forest Service, the Bureau of Land Management, and the United States Fish and Wildlife Service under sections 7(a)(2) and 7(a)(4) of the Endangered Species Act and its regulations.

(f)(1) Not later than two days after enactment of this Act, the Forest Service shall submit to plaintiffs in the captioned case Seattle Audubon Society et al., v. F. Dale Robertson, Civil No. 89-160, a list of sales which had been prepared for offer in fiscal year 1989 and which contain at least 40 acres of suitable spotted owl habitat. Not later than fourteen days after receipt of such list, plaintiffs to the suit referenced in this subsection may enter into an agreement with the Forest Service releasing for sale not less than one billion one hundred million board feet of net merchantable timber. Such sales

must be available for advertisment not later than fourteen days after the agreement required by this subsection is reached. Such timber sales selected shall not be subject to further judicial review by any court of the United States.

(2) If the agreement specified in subsection (f)(1) of this section is reached, then those timber sales described in the list submitted to plaintiffs pursuant to subsection (f)(1) of this section but not contained in the agreement authorized by subsection (f)(1) of this section shall not be offered for sale in fiscal year 1990.

(3) If the agreement authorized under subsection (f)(1) of this section is not implemented within the timeframes prescribed in subsection (f)(1) of this section, one billion one hundred million board feet of net merchantable timber from such sales submitted to plaintiffs pursuant to subsection (f)(1) of this section shall be selected and modified as appropriate by the Forest Service in accordance with the provisions of this section. Selected sales shall be prepared, advertised, offered, awarded and operated notwithstanding any provision of law that is a basis for any stay, injunction or order issued in the proceeding identified in subsection (f)(1) of this section: *Provided,* That nothing in this subsection shall affect rights available under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(4) The Forest Service shall, for each respective timber sale, lift its own stay or apply to the appropriate court for the lifting of the restraining order or injunction whose basis has been withdrawn by this section.

(5) Timber sales selection pursuant to subsections (f)(1) or (f)(3) of this section shall be based on the following criteria: (1) proportional distribution between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988; (2) proportional distribution to the extent possible among the thirteen national forests known to contain northern spotted owls in Oregon and Washington based on the average sale volumes for fiscal years 1986 through 1988; and (3) to the extent possible, selection of sales outside the habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas described in subsection (b)(3) of this section.

(g)(1) No restraining order or preliminary injunction shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a timber sale or timber sales in fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. The provisions of section 705 of title 5, United States Code, shall not apply to any challenge to such a timber sale: *Provided,* That the courts shall have authority to enjoin permanently, order modification of, or void an individual sale if it has been determined by a trial on the merits that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary, capricious or otherwise not in accordance with law: *Provided further,* That any challenge to a timber sale must be filed in Federal District Court within fifteen days of the date of initial advertisement of the challenged timber sale: *Provided further,* That for forty-five days after the date of filing of a challenge to a timber sale the affected agency shall take no action to award a challenged timber sale. Civil actions filed under this section shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases: *Provided further,* That the

Courts, U.S.

Courts, U.S.

court shall render its final decision relative to any challenge within forty-five days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(3) In order to reach a decision within forty-five days, the Federal District Court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

Reports.

(h) The Forest Service, the Bureau of Land Management, and the United States Fish and Wildlife Service shall submit reports updating their findings and progress as determined by the process recognized under subsection (e) of this section on a monthly basis to the President of the Senate and the Speaker of the House of Representatives for appropriate referral. Such reports shall also include information on the extent to which recommendations of the advisory boards established pursuant to subsection (c) of this section were integrated into timber sale decisions as well as reasons for modifying or not adopting recommendations made by the advisory boards. Such reports shall be submitted as directed beginning on December 1, 1989, and ending on September 30, 1990.

(i) Except for provisions of subsection (a)(1) of this section, the provisions of this section apply solely to the thirteen national forests in Oregon and Washington and Bureau of Land Management districts in western Oregon known to contain northern spotted owls. Nothing contained in this section shall be construed to require the Forest Service or Bureau of Land Management to develop similar policies on any other forest or district in Oregon or Washington.

(j) The advisory boards established under this section shall not be subject to the Federal Advisory Committee Act (86 Stat. 770).

(k) Timber sales offered to meet the requirements of subsection (a) of this section shall be subject to the terms and conditions of this section for the duration of those sale contracts. All other provisions of this section shall remain in effect until September 30, 1990.

SEC. 319. (a)(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following new section:

Grants.
Loans.

"§ 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

"(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

"(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

"(A) The awarding of any Federal contract.

"(B) The making of any Federal grant.

"(C) The making of any Federal loan.

"(D) The entering into of any cooperative agreement.

"(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

"(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

"(B) copies of all declarations received by such person under paragraph (5).

"(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

"(ii) has agreed to make any such payment;

"(B) with respect to each such payment (if any) and each such agreement (if any)—

"(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

"(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

"(iii) the amount paid, to be paid, or reasonably expected to be paid;

"(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

"(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

"(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

"(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guaranty; or

"(ii) has agreed to make any such payment; and

"(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

"(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—

"(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a

commitment providing for the United States to insure or guarantee a loan;

"(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

"(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

Records. Reports.

"(6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

Public information.

Defense and national security. Classified information.

"(B) Notwithstanding subparagraph (A)—

"(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

"(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and

"(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

"(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

"(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure. Law enforcement and crime.

"(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

"(B) A filing of a declaration of a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

"(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

"(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

"(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress. Reports.

"(2) The report of an agency under paragraph (1) of this subsection shall include the following:

"(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

"(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

"(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

"(e)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

"(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

"(C) Nothing in this paragraph shall be construed as permitting the use of appropirated funds for making any payment prohibited in or pursuant to any other provision of law

"(2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to—

"(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

"(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

"(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.

"(f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

"(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

"(h) As used in this section:

"(1) The term 'recipient', with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

"(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by

such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

"(2) The term 'agency' has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

"(3) The term 'person'—

"(A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

"(4) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

"(5) The term 'local government' means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

"(A) A local public authority.

"(B) A special district.

"(C) An intrastate district.

"(D) A council of governments.

"(E) A sponsor group representative organization.

"(F) Any other instrumentality of a local government.

"(6)(A) The terms 'Federal contract', 'Federal grant', 'Federal cooperative agreement' mean, respectively—

"(i) a contract awarded by an agency;

"(ii) a grant made by an agency or a direct appropriation made by law to any person; and

"(iii) a cooperative agreement entered into by an agency.

"(B) Such terms do not include—

"(i) direct United States cash assistance to an individual;

"(ii) a loan;

"(iii) loan insurance; or

"(iv) a loan guaranty.

"(7) The term 'Federal loan' means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

"(8) The term 'reasonable payment' means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"(9) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"(10) The term 'regularly employed', with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commit-

ment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(11) The terms 'Indian tribe' and 'tribal organization' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).".

(2) The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.".

Reports.
31 USC 1352 note.

(b) The first report submitted under subsection (b)(6) of section 1352 of title 31, United States Code (as added by subsection (a)), shall be submitted on May 31, 1990, and shall contain a compilation relating to the statements received under subsection (b) of such section during the six-month period beginning on October 1, 1989.

31 USC 1352 note.

(c) The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) of such section.

Effective date.
31 USC 1352 note.

(d) Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act.

Approved October 23, 1989.

LEGISLATIVE HISTORY—H.R. 2788:

HOUSE REPORTS: No. 101-120 (Comm. on Appropriations) and No. 101-264 (Comm. of Conference).
SENATE REPORTS: No. 101-85 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 12, considered and passed House.
July 26, considered and passed Senate, amended.
Oct. 3, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 7, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 23, Presidential statement.

Public Law 101-122
101st Congress

Joint Resolution

Designating October 27, 1989, as "National Hostage Awareness Day".

Oct. 23, 1989
[H.J. Res. 400]

Whereas 10 innocent citizens of the United States have been held hostage in Lebanon;

Whereas it is reported that 1 of the hostages, Lieutenant Colonel William R. Higgins, taken February 17, 1988, was killed by his captors;

Whereas another hostage, William Buckley, political officer at the United States Embassy in Beirut, seized March 18, 1984, is presumed dead;

Whereas the remaining hostages from the United States are: Terry Anderson, chief Middle East correspondent for the Associated Press, seized March 16, 1985; Thomas P. Sutherland, dean of agriculture, American University of Beirut, taken June 9, 1985; Frank Herbert Reed, headmaster of the Lebanese International School, seized September 9, 1986; Joseph James Cicippio, deputy comptroller of the American University of Beirut, seized September 12, 1986; Edward Austin Tracy, illustrator, seized October 21, 1986; Jessee Jonathan Turner, computer and mathematics professor, Beirut University College, seized January 24, 1987; Alann Bradford Steen, professor of journalism at Beirut University College, seized January 24, 1987; and Robert Bruce Polhill, business professor at Beirut University College, seized January 24, 1987;

Whereas efforts by national and international organizations have failed to end the terrible plight of the hostages in Lebanon;

Whereas the fate of other hostages seized in Lebanon of British, West German, Irish, and Italian nationalities is uncertain; and

Whereas Terry Anderson has been held for the longest period of time of all foreign hostages in Lebanon: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 27, 1989, is designated as "National Hostage Awareness Day" in recognition of the 42d birthday of Terry Anderson, his 5th in captivity;

(2) efforts should be made to have October 27 declared International Hostage Day by the United Nations;

(3) all nations and international agencies should work to secure the prompt, safe, and unconditional release of the hostages by exerting influence, either directly on the hostage-takers, or indirectly on other involved nations;

(4) adherents of all faiths in the United States should pray for the release of all United States and foreign hostages in Lebanon on such day; and

(5) in addition to appropriate observances throughout the day, bells should be rung beginning at noon on October 27, 1989, for one minute to honor the hostages in Lebanon.

Approved October 23, 1989.

LEGISLATIVE HISTORY—H.J. Res. 400:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 28, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 101-123
101st Congress

An Act

To amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

Oct. 23, 1989
[S. 248]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Major Fraud Act Amendments of 1989.
18 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act Amendments of 1989".

SEC. 2. REWARD FOR WHISTLEBLOWERS.

(a) AMENDMENT TO TITLE 18.—Section 1031 of title 18, United States Code, is amended by inserting after subsection (f) the following new subsection:

"(g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed $250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section.

"(2) An individual is not eligible for such a payment if—

"(A) that individual is an officer or employee of a government agency who furnishes information or renders service in the performance of official duties;

"(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

"(C) the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

"(D) that individual participated in the violation of this section with respect to which such payment would be made.

"(3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review."

(b) APPLICABILITY.—The amendment made by this section shall apply to contracts entered into on or after the date of the enactment of this Act.

Contracts.
18 USC 1031 note.

SEC. 3. TECHNICAL AMENDMENT.

18 USC 293 and note.
18 USC 293 note.

(a) REPEAL.—Section 3 of the Major Fraud Act of 1988 (Public Law 100-700) and the amendment made by such section are repealed.

(b) EFFECTIVE DATE.—The repeal made by this section shall be deemed to be effective on the date of enactment of Public Law 100-700.

Approved October 23, 1989.

LEGISLATIVE HISTORY—S. 248:

HOUSE REPORTS: No. 101-273 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-7 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed Senate.
Oct. 10, considered and passed House.

Public Law 101-124
101st Congress

Joint Resolution

To designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America".

Oct. 24, 1989
[S.J. Res. 213]

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas alcohol and other drug abuse costs American society nearly $100,000,000,000 a year;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status, as evidenced by the facts that—

(1) 23,000,000 Americans age 12 and over currently use illicit drugs;

(2) a nationwide Weekly Reader survey revealed that of the 68,000 fourth graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine; and

(3) the 15- to 24-year-old group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, many of which are related to drug and alcohol abuse;

Whereas the drug problem appears to be insurmountable, but Americans have begun to lay the foundation to combat it;

Whereas we must continue the important strides we have made in our efforts to prevent alcohol and other drug abuse;

Whereas the most recent national polls reveal that progress has been made in that—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987, marijuana use among this group was at its lowest level in 11 years;

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 percent in 1986 to 48 percent in 1987; and

(3) illicit drug use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas according to public opinion polls the American people consider that drug abuse is one of the most serious domestic problems facing this Nation and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America", and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas other outstanding groups, including the National Parents Resource Institute for Drug Education, the Council for Drug Education, Just Say No International, the National Crime Prevention Council, the Chiefs of Police National Drug Task Force, the National Hispanic Family Against Drug Abuse, national youth organizations, national service organizations, and others, have demonstrated leadership, creativity, and determination in achieving a drug-free America;

Whereas any use of an illegal drug is unacceptable, and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns rampant crime, undermines our economy, and threatens our national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 22 through October 29, 1989, is designated as "National Red Ribbon Week for a Drug-Free America". The United States recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector organizations, and Government leaders, and urges that meetings, conferences, and fundraising activities that support community and alcohol education take place during National Red Ribbon Week for a Drug-Free America with other appropriate activities, events, and educational campaigns. Every American is encouraged to wear and display red ribbons during National Red Ribbon Week for a Drug-Free America to present and symbolize their commitment to a healthy, drug-free lifestyle, and to develop an attitude of intolerance concerning the use of drugs.

Approved October 24, 1989.

LEGISLATIVE HISTORY—S.J. Res. 213:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 6, considered and passed Senate.
Oct. 11, considered and passed House.

Public Law 101-125
101st Congress

An Act

To name the Department of Veterans Affairs medical center in Leavenworth, Kansas, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center".

Oct. 24, 1989
[H.R. 2987]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LEAVENWORTH, KANSAS.

The Department of Veterans Affairs medical center in Leavenworth, Kansas, shall after the date of the enactment of this Act be known and designated as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Dwight D. Eisenhower Department of Veterans Affairs Medical Center.

Approved October 24, 1989.

LEGISLATIVE HISTORY—H.R. 2987:

HOUSE REPORTS: No. 101-259 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, considered and passed House.
Oct. 12, considered and passed Senate.

O

Public Law 101-126
101st Congress

An Act

Oct. 25, 1989
[H.R. 2087]

To transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Abuse Prevention Challenge Grants Reauthorization Act of 1989.
42 USC 5101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Prevention Challenge Grants Reauthorization Act of 1989".

SEC. 2. TRANSFER OF CERTAIN PROGRAM TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

42 USC 5116-5116g.

(a) IN GENERAL.—Sections 402 through 409 of title IV of Public Law 98-473 (98 Stat. 2197 et seq.) are—

(1) transferred to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.);

(2) redesignated as sections 201 through 208, respectively; and

(3) in the appropriate sequence, inserted after section 15 of the Child Abuse Prevention and Treatment Act.

42 USC 5116b note.

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriation Acts for carrying out the program transferred by subsection (a) to the Child Abuse Prevention and Treatment Act, the transfer of such program may not be construed to affect the availability of such amounts for carrying out such program.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by section 2 of this Act, is further amended—

42 USC 5101-5106h.

(1) by redesignating sections 2 through 15 as sections 101 through 114, respectively;

(2) by inserting before section 101 (as so redesignated) the following new heading:

"TITLE I—GENERAL PROGRAM";

and

(3) by inserting before section 201 the following new heading:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS".

(b) CROSS-REFERENCES IN TITLE I.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

42 USC 5102.

(1) in section 102—

(A) in subsection (c)(1)(A), by striking "section 4" and inserting "section 103";

(B) in subsection (e), by striking "section 4(f)" and inserting "section 103(f)"; and

(C) in subsection (f)(2)(E), by striking "sections 6 and 7" and inserting "sections 105 and 106";

(2) in section 104(b)— 42 USC 5104.

(A) in paragraph (1), by striking "section 6(b)" and inserting "section 105(b)"; and

(B) in paragraph (2)(B), by striking "section 105(a)(1)" and inserting "section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988";

(3) in section 105— 42 USC 5105.

(A) in subsection (a)(2)(A), by striking "section 7" and inserting "section 106"; and

(B) in subsection (b)(3), by striking "section 5" and "section 10" and inserting "section 104" and "section 109", respectively;

(4) in section 108— 42 USC 5106b.

(A) in subsection (a)(1), by striking "section 8(b)(10)" and inserting "section 107(b)(10)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title";

(5) in section 109(b)(1), by striking "sections 8(b)" and all that follows and inserting the following: "sections 107(b) and 107(e) or receive a waiver under section 107(c);"; 42 USC 5106c.

(6) in section 112(b)— 42 USC 5106f.

(A) in paragraph (1), by striking "section 10" and inserting "section 109"; and

(B) in paragraph (2), by striking "section 9" and inserting "section 108";

(7) in section 113— 42 USC 5106g.

(A) in the matter preceding paragraph (1), by striking "this Act" and inserting "this title";

(B) in paragraph (1), by striking "section 3" and inserting "section 102";

(C) in paragraph (2), by striking "section 2" and inserting "section 101"; and

(D) in paragraph (9), by striking "section 4" and inserting "section 103"; and

(8) in section 114— 42 USC 5106h.

(A) in subsection (a)—

(i) in the first sentence, by striking "this Act" and inserting "this title"; and

(ii) in the second sentence—

(I) by striking "sections 5, 6, and 7" and inserting "sections 104, 105, and 106";

(II) by striking "sections 8(a) and 9 of this Act" and inserting "sections 107(a) and 108";

(III) by striking "section 7(a) of this Act" and inserting "section 106(a)"; and

(IV) by striking "section 8(f) of this Act" and inserting "section 107(f)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title".

(c) CROSS-REFERENCES IN TITLE II.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

42 USC 5116 *et seq.*

(1) in title II, by striking "sections 402 to 409" each place such term appears and inserting "this title";

42 USC 5116d.

(2) in section 205(b)(1)(A)—

(A) by striking "section 2" and all that follows through "Treatment Act" and inserting "section 101"; and

(B) by striking "section 5" and inserting "section 204"; and

42 USC 5116g.

(3) in section 208, by striking "section 6(b)(1)(C)" and inserting "section 205(b)(1)(C)".

(d) TABLE OF CONTENTS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as otherwise amended by this Act, is amended in section 1(b), in the table of contents—

(1) by redesignating the items relating to sections 2 through 15 as items relating to sections 101 through 114, respectively;

(2) by inserting after the item relating to section 1 the following new item relating to title I:

"TITLE I—GENERAL PROGRAM";

and

(3) by adding at the end the following new items:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS

"Sec. 201. Findings and purpose.
"Sec. 202. Definitions.
"Sec. 203. Grants authorized.
"Sec. 204. State eligibility.
"Sec. 205. Limitations.
"Sec. 206. Withholding.
"Sec. 207. Audit.
"Sec. 208. Report.".

SEC. 4. STYLISTIC MODIFICATION OF TRANSFERRED PROGRAM.

(a) SECTION 201.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 201—

42 USC 5116.

(1) by striking all that follows through "The Congress finds that—" in subsection (a) and inserting the following:

"SEC. 201. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—"; and

(2) in subsection (b), by inserting "PURPOSE.—" after the subsection designation.

(b) SECTION 202.—

(1) DEFINITIONS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking the section heading and all that follows through "As used" and inserting the following:

42 USC 5116a.

"SEC. 202. DEFINITIONS.

"As used".

(2) STATE.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

(c) SECTION 203.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203— 42 USC 5116b.

(1) by striking the section heading and all that follows through "The Secretary" in subsection (a) and inserting the following:

"SEC. 203. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary";

(2) in subsection (b), by inserting "PAYMENTS.—" after the subsection designation; and

(3) in subsection (c), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after the subsection designation.

(d) SECTION 204.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 204 by striking the section heading and all that follows through "Any State" in the matter preceding paragraph (1) and inserting the following: 42 USC 5116c.

"SEC. 204. STATE ELIGIBILITY.

"Any State".

(e) SECTION 205.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 205— 42 USC 5116d.

(1) by striking the section heading and all that follows through "Any grant" in subsection (a)(1) and inserting the following:

"SEC. 205. LIMITATIONS.

"(a) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Any grant";

(2) in subsection (a)—

(A) in paragraph (1), by moving subparagraphs (A) and (B) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "paragraph (1)" and inserting the following:

"(2) DEFINITION.—For purposes of paragraph (1)(B)"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking all that follows through "No grant" in the matter preceding subparagraph (A) and inserting the following:

"(b) APPLICATION.—

"(1) REQUIREMENTS.—No grant"; and

(ii) by moving subparagraphs (A) through (C) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "The Secretary" and inserting the following:

"(2) APPROVAL.—The Secretary".

42 USC 5116e.

(f) SECTION 206.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 206 by striking the section heading and all that follows through "Whenever the Secretary" and inserting the following:

"SEC. 206. WITHHOLDING.

"Whenever the Secretary".

42 USC 5116f.

(g) SECTION 207.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 207 by striking the section heading and all that follows through "The Comptroller General" and inserting the following:

"SEC. 207. AUDIT.

"The Comptroller General".

42 USC 5116g.

(h) SECTION 208.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 208 by striking the section heading and all that follows through "The Secretary" and inserting the following:

"SEC. 208. REPORT.

"The Secretary".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR TRANSFERRED PROGRAM.

42 USC 5116b.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203(c) by striking "There is authorized" and all that follows and inserting the following: "For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991, but in no event shall amounts so appropriated exceed $7,000,000 in any fiscal year.".

SEC. 6. AUTHORITY, WITH RESPECT TO TRANSFERRED PROGRAM, OF NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

42 USC 5104.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 104(b)—

(1) by striking "and" after the semicolon at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2)(D) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

Contracts.
State and local governments.

"(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.".

SEC. 7. STUDY OF TRANSFERRED PROGRAM BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—With respect to the program transferred by section 2(a) to the Child Abuse Prevention and Treatment Act, the Comptroller General of the United States shall conduct a study of the trust funds or other funding mechanisms established by the

States pursuant to the program for the purpose of determining, for each State with such a funding mechanism—

(1) whether the amounts provided by the Federal Government under the program are the only Federal funds received by the State for child abuse prevention activities;

(2) if Federal funds received under the program are not the only Federal funds received by the State for such activities, whether receiving the Federal funds under multiple programs constituted an unnecessary administrative burden for the State, and if so, a description of the nature of the burden;

(3) the extent to which, in the fund, amounts received by the State from the Federal Government under the program, together with State funds contributed pursuant to the program, are commingled with other Federal and State funds, including a specification of the total amount contributed by the State to the fund and the percentage constituted by such amount; and

(4) the amount expended by the State from the fund for each of the activities authorized in the eligibility provisions of the program, the percentage of the fund constituted by each such amount, and the policies underlying the allocation among such activities of amounts in the fund.

(b) REPORT.—The Comptroller General of the United States shall, not later than September 30, 1990, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 8. EFFECTIVE DATE.

42 USC 5102 note.

This Act and the amendments made by this Act shall take effect October 1, 1989, or upon the date of the enactment of this Act, whichever occurs later.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.R. 2087 (S. 1455):

HOUSE REPORTS: No. 101-113 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
Sept. 20, considered and passed Senate, amended, in lieu of S. 1455.
Oct. 11, House concurred in Senate amendment.

O

Public Law 101-127
101st Congress

An Act

Oct. 25, 1989
[H.R. 2088]

To revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Children With Disabilities Temporary Care Reauthorization Act of 1989.
42 USC 5117 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children With Disabilities Temporary Care Reauthorization Act of 1989".

SEC. 2. REFERENCES TO CHILDREN WITH DISABILITIES.

The Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

42 USC 5117a.
(1) in section 203, in the first sentence, by striking "handicapped children" and inserting "children with disabilities"; and

42 USC 5117c.
(2) in section 205—

(A) by striking "working with handicapped" and all that follows through "families" in subsection (a)(2)(C), and inserting the following: "working with children with disabilities, with chronically ill children, and with the families of such children,"; and

(B) by striking "the term" and all that follows through "such term in" in subsection (d)(2), and inserting the following: "the term 'children with disabilities' has the meaning given the term 'handicapped children' in".

SEC. 3. STATE INTERAGENCY COORDINATION.

(a) IN GENERAL.—Section 205(a)(1) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended— 42 USC 5117c.

(1)(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by inserting after such clause (iv) the following new clause:

"(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203."; and

(2)(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following new subparagraph:

"(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including

State agencies responsible for carrying out State programs that—

"(i) receive Federal financial assistance; and

"(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.".

(b) DEFINITION.—Section 205(d) of such Act (42 U.S.C. 5117c(d)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

SEC. 4. REPORTS.

Section 205(c) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended in the second sentence to read as follows: "Such report shall include— 42 USC 5117c.

"(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

"(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

"(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

"(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 206 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended— 42 USC 5117d.

(1) in the first sentence, by inserting before the period the following: ", and $20,000,000 for each of the fiscal years 1990 and 1991"; and

(2) in the second sentence, by striking "Such sums" and inserting "Amounts appropriated under the preceding sentence".

Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.
42 USC 5117 note.

SEC. 6. REVISION OF SHORT TITLE.

Section 201 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended by striking "This title" and all that follows and inserting the following: "This title may be cited as the 'Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986'.".

42 USC 5117a note.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1989, or on the date of the enactment of this Act, whichever occurs later.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.R. 2088 (S. 1454):

HOUSE REPORTS: No. 101-114 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
Sept. 26, considered and passed Senate, amended, in lieu of S. 1454.
Oct. 11, House concurred in Senate amendment.

O

Public Law 101-128
101st Congress

Joint Resolution

Designating October 1989 as "Italian-American Heritage and Culture Month".

Oct. 25, 1989
[H.J. Res. 392]

Whereas Italians and Italian-Americans have contributed to the United States in all aspects of life, including art, science, civil service, military service, athletics, and education;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas, in recognition of the accomplishments of Christopher Columbus, recognized as one of the greatest explorers in world history and the first to record the discovery of the Americas, a national observance day was established in October of every year;

Whereas the phrase in the Declaration of Independence, "All men are created equal", was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas during October 1989 special attention will be directed at local and State programs that promote Italian heritage and culture, with special emphasis on national programs such as the Italian Heritage Center at Catholic University of America; and

Whereas during October 1989 the National Italian American Foundation will host the 14th annual dinner to honor Italians and Italian-Americans making important contributions to the development of the arts, sciences, athletics, and education in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "Italian-American Heritage and Culture Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 392:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 3, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 101-129
101st Congress

Joint Resolution

Oct. 25, 1989
[H.J. Res. 401]

To designate the month of October 1989 as "Country Music Month"

Whereas country music derives its roots from the folk songs of our Nation's workers, captures the spirit of our religious hymns, reflects the sorrow and joy of our traditional ballads, and echoes the drive and soulfulness of rhythm and blues;

Whereas country music has played an integral part in our Nation's history, accompanying the growth of the Nation and reflecting the ethnic and cultural diversity of our people;

Whereas country music embodies a spirit of America and the deep and genuine feelings individuals experience throughout their lives;

Whereas the distinctively American refrains of country music have been performed for audiences throughout the world, striking a chord deep within the hearts and souls of its fans; and

Whereas October 1989 marks the 25th annual observance of Country Music Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1989 is designated as "Country Music Month" and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 401 (S.J. Res. 196):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 101-130
101st Congress
Joint Resolution

Making further continuing appropriations for the fiscal year 1990, and for other purposes.

Oct. 26, 1989
[H.J. Res. 423]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of September 29, 1989 (Public Law 101-100), is hereby amended by striking out "October 25, 1989" and inserting in lieu thereof "November 15, 1989" in section 102(c), and by adding the following new sections:

Ante, p. 638.

Fiscal Year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.

"SEC. 108. (a) For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,100,000,000 for fiscal year 1990 to meet the present emergency, to remain available until expended.

"(b) For an additional amount to meet the present emergency to the Emergency Fund authorized by 23 U.S.C. 125, $1,000,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That the provisions of 23 U.S.C. 125(b)(1) shall not apply to amounts available in this Fund.

"(c) For additional capital for the 'Disaster loan fund', authorized by the Small Business Act, as amended, $500,000,000, to remain available without fiscal year limitation to meet the present emergency of which not to exceed $30,000,000 may be transferred to the 'Salaries and expenses' account of the Small Business Administration for disaster loan servicing and disaster loan making activities: *Provided,* That during fiscal year 1990, and within the resources available to carry out section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000.

"(d) For an additional amount necessary to enable the President to meet unanticipated needs to meet the present emergency arising from the consequences of the recent natural disasters, there is appropriated $250,000,000, to remain available until expended: *Provided,* That these funds may be transferred to any authorized Federal governmental activity to meet the requirements of the natural disasters: *Provided further,* That of the sums appropriated, $20,000,000 shall be available for activities under the National Earthquake Hazards Reduction Program, including $8,000,000 to the United States Geological Survey for earthquake investigations and $12,000,000 to the Program's four principal agencies for additional efforts to improve earthquake preparedness throughout the United States.

"(e) Such other amounts will be made available subsequently as required.

"This section may be cited as the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.

"SEC. 109. Section 102(c) shall not apply to sections 107, 108, 109, 110, 111, 112, and 113.

"SEC. 110. Notwithstanding section 120(f) of title 23, United States Code, the Federal share payable on account of any project on the Interstate and other Federal-aid highway system resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such natural disaster.

California.

"SEC. 111. Notwithstanding section 301 of title 23, United States Code, projects on the San Francisco-Oakland Bay Bridge in the State of California resulting from the Loma Prieta Earthquake of October 17, 1989, shall be eligible for funds authorized to carry out section 125 of such title: *Provided*, That insurance payments shall be deducted from construction costs.

Insurance.

"SEC. 112. Notwithstanding section 157(a)(3) of title 23, United States Code, allocations for emergency relief in accordance with section 125 of such title with respect to projects resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, shall be excluded from making the determination of amounts to be allocated among the States pursuant to such section 157(a)(3).

"SEC. 113. The $100,000,000 limitation contained in section 125(a) of title 23, United States Code, on amounts authorized to be expended in any one fiscal year to carry out the provisions of section 125 of such title shall not apply with respect to expenditures for repairs and reconstruction of highways which have been damaged as a result of Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989.".

Approved October 26, 1989.

LEGISLATIVE HISTORY—H.J. Res. 423:

HOUSE REPORTS: No. 101-301 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 24, considered and passed House.
Oct. 25, considered and passed Senate, amended. House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 26, Presidential remarks and statement.

Public Law 101-131
101st Congress

An Act

To amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

Oct. 28, 1989
[H.R. 2978]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Flag Protection Act of 1989.
18 USC 700 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection Act of 1989".

SEC. 2. CRIMINAL PENALTIES WITH RESPECT TO THE PHYSICAL INTEGRITY OF THE UNITED STATES FLAG.

(a) IN GENERAL.—Subsection (a) of section 700 of title 18, United States Code, is amended to read as follows:

"(a)(1) Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both.

"(2) This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.".

(b) DEFINITION.—Section 700(b) of title 18, United States Code, is amended to read as follows:

"(b) As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.".

SEC. 3. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

Section 700 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

"(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.".

[Note by the Office of the Federal Register: The foregoing Act, having been presented to the President of the United States on Monday, October 16, 1989, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become law without his signature on October 28, 1989]

LEGISLATIVE HISTORY—H.R. 2978 (S. 607) 'S. 1338):

HOUSE REPORTS: No. 101-231 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-152 accompanying S. 1338 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 16, S. 607 considered and passed Senate.
Sept. 12, H.R. 2978 considered and passed House.
Oct. 4, 5, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 26, Presidential statement.

Public Law 101-132
101st Congress

An Act

Oct. 30, 1989
[H.R. 801]

To designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, as the "Elbert P. Tuttle United States Court of Appeals Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, shall be known and designated as the "Elbert P. Tuttle United States Court of Appeals Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Elbert P. Tuttle United States Court of Appeals Building".

Approved October 30, 1989.

Public Law 101-133
101st Congress

Joint Resolution

Designating October 18, 1989, as "Patient Account Management Day".

Oct. 30, 1989
[H.J. Res. 380]

Whereas the American Guild of Patient Account Management represents 4,500 members in 44 chapters across the Nation;

Whereas patient account management personnel directly influence the health care delivery system of the United States by efficiently managing the administrative needs of health care providers;

Whereas hospitals and physicians depend on the expertise of patient account management personnel to monitor effective and positive cash flow;

Whereas patient account management personnel provide patients with important and relevant information, guidance, and assistance to understand and manage medical bills, the complex systems of Medicare, Medicaid, insurance coverage, and health care reimbursement; and

Whereas patient account management personnel are part of the financial backbone of the health care system in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 18, 1989, is designated as "Patient Account Management Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 30, 1989.

LEGISLATIVE HISTORY—H.J. Res. 380:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 16, considered and passed House.
Oct. 18, considered and passed Senate.

O

Public Law 101-134
101st Congress

An Act

Oct. 30, 1989
[S. 1792]

To amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

"(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the net value (as determined under subsection (c)) of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

"(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or 1989) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

"(c) ADMINISTRATION.—

"(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

"(A) only consider any production of the second crop that is in excess of 50 percent of the county average yield for such crop;

"(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

"(C) reduce the value of such excess second crop production by 25 percent.

"(2) HISTORICAL CROPPING PATTERNS.—In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers.

"(3) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

"(4) FUTURE CROPPING PRACTICES.—In carrying out this section, the Secretary may make adjustments to the crop acreage bases to reflect crop rotation practices because of the occurrence of a natural disaster or other similar condition beyond the control of the producer in determining a fair and equitable crop acreage base.".

SEC. 2. MARKETING QUOTAS.

(a) FARM POUNDAGE QUOTAS.—

(1) IN GENERAL.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended—

(A) in subsection (d)—

(i) by striking "October 1, 1982" and inserting "for the previous marketing year"; and

(ii) by striking "1978 crop year" and inserting "immediately preceding 5 crop years"; and

(B) in the second sentence of subsection (e), by striking "marketing year beginning October 1, 1982" each place it appears and inserting "previous marketing year".

(2) ACREAGE—POUNDAGE QUOTAS.—Section 317(a)(6)(B) of such Act (7 U.S.C. 1314c(a)(6)(B)) is amended by striking "years 1960 to 1964, inclusive, may be used, as determined by the Secretary" and inserting "immediately preceding 5 crop years shall be used by the Secretary".

(b) LEASE OR SALE OF ACREAGE ALLOTMENTS.—Section 316(c) of such Act (7 U.S.C. 1314b(c)) is amended by striking all after the first sentence and inserting "The transfer shall be approved acre for acre.".

SEC. 3. COST REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(3) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

Approved October 30, 1989.

LEGISLATIVE HISTORY—S. 1792:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 25, considered and passed Senate.
Oct. 26, considered and passed House, amended. Senate concurred in House amendment.

○

Public Law 101-135
101st Congress

Joint Resolution

Oct. 30, 1989
[S.J. Res. 177]

To designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day".

Whereas every year, 500,000 fires ravage the homes of Americans, resulting in over 6,000 deaths and 300,000 injuries;

Whereas home fires are the leading cause of accidental death and serious injury among children in the United States;

Whereas senior citizens, families in substandard housing, and the physically and mentally disabled are at high risk of becoming victims of fire;

Whereas 3 out of 4 homes have at least 1 smoke detector, but an estimated one-half are inoperable because of worn or missing batteries;

Whereas the International Association of Fire Chiefs estimates that the annual practice of changing batteries in smoke detectors would save thousands of lives and billions of dollars in property damage;

Whereas the Congressional Fire Services Caucus, with its broad-based bipartisan membership, reflects the concern of Congress for fire safety and its dedication to making it an important national priority;

Whereas the designation of a special day to remind Americans to properly maintain their smoke detectors, timed to coincide with the autumnal return to Standard Time, would greatly diminish this human tragedy; and

Whereas October 29, 1989, is the day Americans in jurisdictions on Daylight Savings Time return their clocks to Standard Time: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1989, is designated as "Fire Safety at Home—Change Your Clock, and Change Your Battery Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day by maintaining their homes' first line of defense against fire by changing the batteries in their smoke detectors when they reset their clocks to Standard Time.

Approved October 30, 1989.

LEGISLATIVE HISTORY—S.J. Res. 177:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Oct. 24, considered and passed House.

O

Public Law 101-136
101st Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 3, 1989
[H.R. 2989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes, namely:

Treasury, Postal Service and General Government Appropriations Act, 1990.

TITLE I

Treasury Department Appropriations Act, 1990.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,000,000 and forty full-time permanent positions for the Office of Foreign Assets Control; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $58,081,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $25,010,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $13,605,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed thirty for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept gifts: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority: *Provided further,* That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1990; $36,000,000: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

Gifts and property.

Decorations, medals, awards. Gifts and property. 42 USC 3771 note.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $15,000,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $289,695,000, of which not to exceed $14,864,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $257,565,000, of which $19,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1990, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That funds made available under this Act shall be used to achieve a minimum level of 3,850 full-time equivalent positions for fiscal year 1990, of which no fewer than 692 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to one thousand motor vehicles for replacement only, including nine hundred and ninety for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,059,634,000, of which up to $7,000,000 shall be availabie for the Interagency Border Inspection System, and of which such sums as become available in the Customs User Fee Account, except sums subject to section

13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 16,976 full-time equivalent positions in fiscal year 1990, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1990: *Provided further,* That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

Operation and Maintenance, Air Interdiction Program

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $196,728,000, to remain available until expended: *Provided,* That no aircraft or other related equipment shall be transferred to any Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1990.

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 100-690; to be derived from deposits in the Fund.

Customs Services at Small Airports

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,175,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the

Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $50,735,000, including amounts for purchase and maintenance of uniforms not to exceed $275 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $207,906,000.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $72,382,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended for research, and of which $128,000 shall remain available until expended for tax systems modernization initiatives.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,946,003,000 of which $156,419,000 shall remain available until expended for tax systems redesign initiatives and of which not to exceed $60,000,000 shall remain available until expended for systems modernization initiatives.

EXAMINATION AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,911,301,000, of which $1,674,000 shall remain available until expended for tax systems modernization initiatives.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of the Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $3,000,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $3,000,000 can be devoted to program requirements; $1,620,252,000, of which $1,431,000 shall remain available until expended for tax systems modernization initiatives; and of which an additional $7,400,000 shall be available for criminal investigations activities: *Provided,* That an additional $7,400,000 may be made available within existing funds for criminal investigations..

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presen-

tation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $370,785,000, of which $2,100,000 shall remain available until expended for construction at the Vice President's Temporary Official Residence, and of which not to exceed $160,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States under provisions of section 12 of the Presidental Protection Assistance Act of 1976 (18 U.S.C. 3056 note).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services. 31 USC 306 note.

SEC. 105. Not more than $22,640,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1990"

Postal Service Appropriations Act, 1990.

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $459,755,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1990.

39 USC 403 note.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $36,942,000.

UNITED STATES POSTAL SERVICE

GENERAL PROVISIONS

New York.

SECTION 1. That none of the funds in this Act or made available by 39 U.S.C. 2401(a) may be used to enter into any new contracts relating to the Westchester County, New York, General Mail Facility or construction thereof for a period of ninety days. During this ninety-day period, the Postal Service shall pursue alternative site locations for the Westchester GMF and at the end of that period shall report back to the Appropriations Committee with recommended alternatives.

Reports.

This title may be cited as the "Postal Service Appropriations Act, 1990".

Executive Office Appropriations Act, 1990.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That

3 USC 102 note.

none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $18,825,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles and of which not less than $500,000 shall be made available to the White House Conference on Indian Education.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $30,639,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $6,898,000, of which $800,000 for the replacement of exterior windows of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114 and of which $125,000 shall remain available until expended for refurbishment of furniture.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $578,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,335,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,906,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,079,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $400,000: *Provided,* That a minimum level of 5 permanent full-time equivalent positions shall be hired and maintained by the National Critical Materials Council in fiscal year 1990: *Provided further,* That none of the funds made available to the Council under this Act shall be used to pay other Federal agencies for reimbursable detailees in fiscal year 1990 without the advance approval of the House and Senate Committees on Appropriations.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,409,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $44,894,000 of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of

the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

Investment in Management Improvement

For expenses necessary to improve the management and productivity of Executive agencies, such as the development of systems to integrate budget, accounting, administrative, and program management information, and pilot projects to use credit card technology to disburse benefit payments, $500,000, to remain available until expended.

OFFICE OF FEDERAL PROCUREMENT POLICY

Salaries and Expenses

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,660,000.

OFFICE OF NATIONAL DRUG CONTROL POLICY

Salaries and Expenses

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed $7,500 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $12,000,000: *Provided,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

Gifts and property.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1990".

Independent Agencies Appropriations Act, 1990.

TITLE IV

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $1,865,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,300,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

Reports.

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided,* That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $1,062,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $15,330,000.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $25,220,000 to be deposited into said fund. The revenues and collections deposited into said fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $3,328,345,320, of which (1) not to exceed $138,843,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Alaska:

Skagway, Border Station, $4,110,000

Iowa:

Ames, a grant to establish a midwest Supercomputer Access Center at Iowa State University, $5,000,000

California:

Long Beach, Grant to County of Los Angeles, additional deck to a parking facility, $3,000,000

Colorado:

Boulder, NOAA, $31,814,000

Kansas:

Kansas City, Federal Building, Courthouse, Site, $200,000

Maryland:

Prince George's County Federal Courthouse, Site and Design, $4,700,000

Massachusetts:

Boston, Federal Building, Claim, $2,930,000

Woods Hole, a grant for the development of the Marine Biomedical Institute for Advanced Studies, $2,000,000

Northampton, a grant for a science center at Smith College, $1,500,000

Maryland:

Baltimore, a grant for planning and design of the Christopher Columbus Center on Marine Research and Exploration, $1,500,000

Minnesota:

International Falls, Border Station, $1,472,000

New Jersey:

Paterson, Federal Building, $1,200,000

Nebraska:

Lincoln, a grant for expansion of the Eppley Institute for Research in Cancer and Allied Diseases, $5,000,000

New Mexico:

Alamogordo, Grant to the New Mexico State University, Primate Research Institute, Site and Facilities, to be constructed on a site leased from the United States Air Force at Holloman Air Force Base, $5,000,000

North Carolina:

Asheville, Federal Building, site and design, $4,000,000

Oregon:

Astoria, Grant to the City of Astoria for reconstruction (including parking/roadwork) of the first United States Custom House west of the Rockies, $90,000

Pennsylvania:

Philadelphia, Veterans Administration, $54,000,000

Virgin Islands:

St. Croix, Federal Building, Courthouse, $8,827,000

Construction Projects, less than $1,500,000, $2,000,000

Other selected purchases including options to purchase, $500,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1991, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $558,692,320 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Alabama:

Mobile, Federal Building, $1,581,000

Alaska:

Juneau, Federal Building, Courthouse, Post Office, $12,258,000

California:

Los Angeles, Federal Building, Post Office, 11000 Wilshire Blvd., $7,700,000

Los Angeles, Courthouse, 312 Spring Street, $5,302,000
San Francisco, Federal Building, Courthouse, 450 Golden Gate Avenue, $55,851,000
Colorado:
Denver, Byron G. Rogers Federal Building, Courthouse, $8,614,000
Lakewood, Denver Federal Center, Building 810, $7,841,000
District of Columbia:
General Services Administration Headquarters, $19,000,000
J. Edgar Hoover Federal Building, $9,800,000
Housing and Urban Development, $9,500,000
Old Executive Office Building, $18,000,000
Florida:
St. Petersburg, Federal Building, $3,637,000
Georgia:
Macon, Federal Building, Courthouse, $1,765,000
Illinois:
Chicago, Customhouse, $9,596,000
Chicago, Everett M. Dirksen Federal Building, Courthouse, $2,833,000
Chicago, Federal Building, 536 S. Clark Street, $35,328,000
Danville, Federal Building, Courthouse, $2,627,000
Massachusetts:
Boston, John F. Kennedy Federal Building, $9,700,000
Michigan:
Detroit, Federal Building, Courthouse, $2,580,000
Minnesota:
Fort Snelling, Bishop Henry Whipple Federal Building, $4,728,000
Missouri:
Overland, Adjutant General Personnel Center, $1,940,000
Overland, Federal Records Center, $7,691,000
New Mexico:
Sante Fe, Federal Building, Cathedral Place at Palace, $2,130,000
New York:
Brooklyn, Emanuel Celler Federal Building, Cadman Plaza, $5,100,000
Pennsylvania:
Philadelphia, James A. Byrne Courthouse, $7,801,000
Philadelphia, William J. Greene, Jr., Federal Building, $6,774,000
Philadelphia, Robert N.C. Nix, Sr., Federal Building, $19,268,000
Pittsburgh, William S. Moorhead Federal Building, $7,850,000
Tennessee:
Chattanooga, Joel W. Solomon Federal Building, Courthouse, $3,033,000
Jackson, Post Office, Courthouse, $2,433,000
Texas:
Fort Worth, Fritz G. Lanham Federal Building, $4,834,000
Virginia:

Charlottesville, Federal Executive Institute, $2,100,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $3,548,000
Capital Improvements of United States-Mexico Border Facilities, $54,681,320 as follows:
Arizona:
Douglas, New Border Station, $4,000,000
Nogales, Mariposa Border Station, $4,289,000
Nogales, Grand Ave./Morley Gate Border Station, $12,427,000
California:
Calexico, Border Station, $4,000,320
Otay Mesa, Border Station, $4,302,000
Otay Mesa, New facility, $2,000,000
San Ysidro, Border Station, $3,366,000
New Mexico:
Santa Teresa, New Border Station, $6,152,000
Texas:
Brownsville, Los Indios Border Station, $1,535,000
Columbia, New Border Station, $4,000,000
Eagle Pass, Border Station, $1,402,000
El Paso, Bridge of the Americas, Border Station, $7,208,000.

Minor Repairs and Alterations, $201,268,000: *Provided,* That by no later than July 30, 1990, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1991, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $126,752,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,341,736,000 for rental of space; (5) not to exceed $948,000,000 for real property operations; (6) not to exceed $68,020,000 for program direction and centralized services; and (7) not to exceed $146,302,000 for design and construction services which shall remain available until expended: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That the Administrator of General Services is hereby directed to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of a building of approximately 541,000 occupiable square feet, in Chamblee, Georgia. The contract shall provide, by lease or installment payments over a period of not to exceed thirty years, for the payment of the purchase

Contracts.
Georgia.

price and reasonable interest thereon, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligations of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code: *Provided further,* That, notwithstanding any other provision of law, the Administrator of General Services is hereby authorized to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of such buildings as required to provide not to exceed 1,400,000 occupiable square feet and necessary parking for the Environmental Protection Agency, on a site in the District of Columbia. The contract shall provide, by lease or installment payment over a period not to exceed thirty years, from funds available in the Federal Buildings Fund for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building(s) to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligation of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code: *Provided further,* That the Administrator of General Services is hereby directed to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of a building of approximately 664,100 occupiable square feet, on a site to be donated or otherwise acquired, in the City of Baltimore, Maryland, or the City of Woodlawn, Maryland. The contract shall provide, by lease or installment payments over a period of not to exceed thirty years, for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligations of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code: *Provided further,* That the limitation on purchase price for the Oakland, California building authorized under this heading in Public Law 100-202 may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for the Prince George's County, Maryland, Federal Courthouse; Capital Improvements for United States-Mexico Border Facilities; and the Santa Fe New Mexico Federal Building shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services

Contracts.
District of Columbia.

Contracts.
Maryland.

Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1990 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $3,328,345,320 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $47,644,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $12,174,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $8,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for

payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $124,297,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further,* That for the fiscal year ending September 30, 1990, in addition to funds previously appropriated to General Management and Administration, there is hereby appropriated $13,152,000 to remain available until expended, to be allocated as grants for the following projects:

(a) Rochester Institute of Technology, Rochester, New York, to establish a strategic materials research center, $1,500,000;

(b) Michigan Technological University, Houghton, Michigan, for construction of a center for applied metallurgical, minerals, and materials research, $5,000,000;

(c) University of Maryland, College Park, Maryland, to establish a center for strategic man-made materials, $1,500,000;

(d) University of Hawaii, Manoa, Hawaii, for a strategic materials research facility, $1,000,000; and

(e) University of Texas, El Paso, Texas, for a grant to study and facilitate the development and transfer and installation of strategic materials technologies among American industries, $4,152,000.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications,

information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $32,480,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $26,500,000 of which $1,000,000 is available until expended for procurement and installment of an automation program in support of audits and investigations: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,823,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

Public buildings and grounds.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1990 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

40 USC 490d.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

Maryland.

SEC. 6. Notwithstanding any provisions of this Act or any other Act in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for design and alterations to the Avondale, Maryland, property at rates

so as to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f).

SEC. 7. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund. 40 USC 490a-1.

SEC. 8. The General Services Administration shall take immediate action to secure corrections to health and safety problems at the IRS Manhattan District Office and is directed if unable to correct such problems through the lessor within 90 days, to take such actions necessary to accomplish the corrections and withhold such amounts expended on such corrections from rental payments. Safety. New York.

SEC. 9. OBLIGATIONS FOR MULTIYEAR AGREEMENTS FOR LEASE OR OTHER ACQUISITION OF MOTOR VEHICLES ENTERED INTO BY ADMINISTRATOR OF GENERAL SERVICES.—(a) IN GENERAL.—Subject to subsection (b), obligations of funds for multiyear agreements for the lease or other acquisition of motor vehicles entered into by the Administrator of General Services for the purposes of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491) shall be limited to the current fiscal year for which payments are due, without regard to any termination or cancellation costs, and without regard to section 1341(a)(1)(B) of title 31, United States Code. 40 USC 491 note.

(b) AFFECTED AGREEMENTS.—This section shall apply to multiyear agreements which—

(1) are entered into by the Administrator during the 4-year period beginning on the date of the enactment of this Act; and

(2) provide for the lease of motor vehicles for a period of not more than four years.

SEC. 10. The general provision (section 8) in Public Law 100-440 is amended as follows: In subsection (b)(1) delete "600,000" and insert "900,000". Delete subsection (b)(2). 102 Stat. 1741.

SEC. 11. (a) Notwithstanding any other provisions of law, the Administrator of General Services, with the concurrence of the Director of the U.S. Fish and Wildlife Service, is authorized and directed to acquire, by means of a lease of up to twenty years duration, a new facility to house the offices of Region Five of the U.S. Fish and Wildlife Service in Hampshire County or Holyoke, Massachusetts. Contracts. Massachusetts.

(b) There is hereby made available until expended, out of the Federal Buildings Fund, not to exceed $100,000 for telecommunication system expenses associated with the relocation of Region Five of the U.S. Fish and Wildlife Service to the facility authorized to be leased by this Act.

SEC. 12. The Administrator of GSA is directed to lease approximately one hundred thousand occupiable square feet of office and special purpose space to provide for relocation and consolidation of the outpatient clinic functions in Boston, Massachusetts, currently located in an outdated Federal building at 17 Court Street. Contracts. Massachusetts.

Colorado.

SEC. 13. Notwithstanding any other provision of law, the Secretary of Commerce shall transfer to the General Services Administration at no cost approximately fifteen acres of the site at 325 Broadway in Boulder, Colorado, for the construction of a new Federal Building to house the National Oceanic and Atmospheric Administration. In selecting the land to be transferred, the Secretary shall give due consideration to access from Broadway and the availability of utilities.

SEC. 14. The Administrator of General Services after consultation with the Internal Revenue Service, Department of the Treasury and the Department of Defense shall submit a prospectus for the Internal Revenue Service and a prospectus for the Department of the Navy to the House Committee on Public Works, the Senate Committee on Environment and Public Works, and the House and Senate Committees on Appropriations within 90 days of enactment of this Act.

One prospectus shall provide for the consolidation of existing leased space for activities of the National Office of the Internal Revenue Service and additional space which may be required by such activities in the National Capital Region, into one consolidated suburban Maryland location in the National Capital Region.

A second prospectus shall provide for the consolidation of existing leased space in northern Virginia and additional space required by the Department of the Navy in the northern Virginia area into one consolidated location in the northern Virginia area.

The prospectuses shall outline how such space shall operate in a coordinated fashion with existing Government controlled space that will continue to be occupied by such agency or department and shall provide that the Administrator of General Services shall competitively acquire and select quality space representing the best value for the Government at the lowest possible cost within each respective area.

North Carolina.

SEC. 15. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell to the city of Asheville or political subdivision at fair market value, the Grove Arcade Federal Building and site, in whole or in part, in Asheville, North Carolina, and to deposit such proceeds into the Federal Buildings Fund.

California.

SEC. 16. Notwithstanding any other provision of law, the County of Los Angeles in the State of California shall provide to the General Services Administration, without cost, 250 parking spaces for a period of ninety-nine years, in the Parking Facility at Long Beach, California, for which a Grant is provided from revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

Hawaii.
Gifts and property.

SEC. 17. (a) CONVEYANCE.—Subject to subsection (c), notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall convey, subject to existing easements, without consideration, to the State of Hawaii, all right, title and interest of the United States in and to approximately 89.274 acres more specifically described in subsection (b), together with any improvements, structures and fixtures located thereon and related personal property in Waianae, Oahu, State of Hawaii at the former U.S. Coast Guard transmitter site.

(b) LEGAL DESCRIPTION.—This land is a portion of Grant 4751 to H.M. Von Holt and a portion of Lot A-4-A of Land Court Applica-

tion 130 situated about 2,000 feet Northeasterly from Farrington Highway at Lualualei, Waianae, Oahu, State of Hawaii; beginning at the Northwest corner of this piece of land and on the easterly boundary of Grant 7859 to Ralph E. Turner, the true azimuth and distance from Government Survey Triangulation Station "Puu-O-Hulu (Makai)" being 167°33′ 5556.27 feet and running by true azimuths measured clockwise from South: (1) 261°44′ 1940.00 feet along 50′ road easement; (2) 360°00′ 2551.34 feet; (3) 89°06′ 1413.41 feet; (4) 167°33′ 2349.87 feet along Grant 8422 to Lizzie Gilliland and Grant 7859 to Ralph E. Turner to the point of beginning; total acreage 93.575.

Excluding from said 93.575 acre parcel, parcel A of Waianaenui Watershed Project, Maili Channel Improvement, lines M-5 and M-6, Being Lot 202-A, area 1.440 acres, as shown on Map 53, and filed in the Office of the Assistant Registrar of the Land Court of State of Hawaii with Land Court Application No. 130 of Alexander C. Dowsett et al., and being a portion of the land described in Transfer Certificate of Title No. 86,019 issued to said grantor, situated at Lualualei, Waianae, Oahu, Hawaii, and also excluding therefrom, Parcel "B" of Waianaenui Watershed Project, Maili Channel Improvement, lines M-5 and M-6: All of that certain parcel of land being a portion of Grant 4751 to H.M. Von Holt (Portion of U.S. Civil No. 868), situated at Lualualei, Waianae, Oahu, Hawaii, approximately 2.861 acres.

(c) CONDITIONS OF CONVEYANCES.—(1) The Administrator shall convey the approximately 89.274 acres described in subsection (b) to the State of Hawaii on the condition that the State of Hawaii, within 3 years of date of conveyance, exchange such property and other appropriate consideration (if necessary) for an equal total amount of consideration that includes one or more parcels of Hawaiian home lands on the islands of Hawaii, Oahu, and Molokai consisting of: (1) approximately 6.00 acres of real property located in Keaukaha (Tract 1), Waiakea, Hilo, Hawaii, being the present site of Keaukaha School; (2) approximately 26.207 acres of real property filed in the Office of the Department of Land and Natural Resources in C.S.F. No. 20282 and a separate parcel, being the present site of Molokai High School and Athletic Field; and (3) approximately 13.675 acres, filed in the Office of the Department of Land and Natural Resources in C.S.F. Nos. 12325, 10414, and 6342, being the present site of Nanaikapono Elementary School.

In the event the exchange of the property is not completed within the time period as specified herein, including recording the deed for the conveyance of the property from the State of Hawaii in accordance with all applicable laws, all right, title and interest to such property shall revert to the United States and the United States shall have the immediate right of entry thereon.

(2) Prior to the conveyance by the Administrator of approximately 89.274 acres described in subsection (b), as a condition of the conveyance, the State of Hawaii shall agree that the Hawaiian Home Land properties to be acquired by the State of Hawaii in the exchange described in subsection (c)(1) shall only be used for educational purposes in perpetuity, and in the event the properties cease to be so used, all or any portion of such properties shall, in its existing condition, revert to the United States.

SEC. 18. (a) Notwithstanding section 203(k) of the Federal Property and Administrative Services Act of 1949, any implementing regulations, and the conveyance of Deed Without Warranty of June 5, 1968

recorded in Book 250 pages 183 through 196 of the Deed Records of Chaves County, New Mexico, on June 5, 1968, and Correction Deed of January 6, 1969, to the Deed Without Warranty of June 5, 1968, recorded in Book 252 pages 100 through 115 of the Deed Records of Chaves County, New Mexico, from the United States of America to the Board of Regents, Eastern New Mexico University (ENMU), the Secretary of Education shall, as to the property described in subsection (b), grant a release to ENMU from all terms, conditions, reservations, and restrictions required by the Federal Property and Administrative Services Act, implementing regulations or contained in the above mentioned Deeds, subject to the United States retaining until June 5, 1998, a reversionary interest, which runs with the land, if any part of the property described in subsection (b) is not used for educational or training purposes.

(b) The property referred to in this section is described as a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, NMPM, Chaves County, New Mexico and being more particularly described as follows: Beginning at a point on the South boundary of the Pecos Valley Village subdivision from which the Northwest corner of said Section 33 bears N 6°16'28" W a distance of 2382.64 feet, said point being the intersection of said South boundary and the centerline of Gail Harris Street; thence S 89°37'30" E along the south boundary of the Pecos Valley Village subdivision, a distance of 753.38 feet; thence S 0°00'43" E a distance of 2382.10 feet; thence S 89°58'24" W a distance of 771.18 feet to the centerline of Gail Harris Street; thence N 0°24'51" E along said centerline, a distance of 2387.43 feet to the point of beginning. Containing 41.7245 acres, more or less.

SEC. 19. Notwithstanding any other provision of law, the Administrator of General Services—

Real property.
New Mexico.

(a) shall convey, without consideration, jurisdiction (custody, accountability and control) to the Institute of American Indian and Alaska Native Culture and Arts Development (Institute), over approximately 31,006 square feet of real property, together with any improvements, structures, and fixtures located thereon and related personal property, located at Cathedral Place at Palace, in Ward Number 4 of the City of Santa Fe and Precinct Number 18 of the County of Santa Fe, New Mexico, and

(b) shall transfer to the Institute, from revenues and collections in the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 United States Code 490(f)), the sum of $2,130,000 for carrying out, in consultation with the Administrator of General Services, repairs and alterations to the facility transferred by this section.

South Carolina.
Real property.

SEC. 20. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed—

(1) releasing the reversionary interest to the property identified in subsection (b), held by the United States on the date of the enactment of this Act; and

(2) which is subject to the condition that—

(A) the property shall be used for educational purposes for a period of 25 years; and

(B) if during that period the property or any portion of the property ceases to be used for educational purposes, all

right, title, and interest in and to the property shall revert to the United States.

(b) All that lot, piece or parcel of land, situate, lying and being on the west side of Chisolm Street, in Ward 2, in the City of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southernmost line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills Property to the United States of America, by Deeds which are recorded and may be seen in Book U-24, Page 582 and Page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a Plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said Plat is on record in Plat Book C, Page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in Book U-24, Page 587, and by deed of West Point Mills Company, dated November 20, 1916, and recorded in said office in Book U-24, Page 589.

SEC. 21. (a) Notwithstanding any other provision of law, agencies are authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

SEC. 22. Notwithstanding any provisions of this Act or any other Act in any fiscal year, obligations of funds for lease, entered into in accordance with section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 490, shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(b) of title 31, United States Code. 40 USC 490e.

Arkansas.

SEC. 23. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 24. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 25. Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) establishing the Information Technology Fund is amended by adding a sentence at the end of paragraph (a)(2): These plans fulfill the requirements of 31 U.S.C. 1512 and 1513.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $126,612,000 of which $5,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses: $3,414,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Execu-

tive Order 10422 of January 9, 1953, as amended: *Provided,* That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1990. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $112,430,000 of which not less than $250,000 shall be made available to establish a program to facilitate the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not to exceed $1,000,000 shall be made available for establishment of Federal health promotion and disease prevention programs for Federal employees; in addition to $81,907,000 for administrative expenses, including direct procurement of health benefits printing, for the retirement and insurance programs of which $11,800,000 shall remain available until expended for costs incurred in implementing the recordkeeping system of the Federal Employees Retirement System, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1990, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

Gifts and property.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles: $2,918,000; and in addition, not to exceed $2,193,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts sufficient to cover such administrative expenses, as determined by the Inspector General without regard to other statutes.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $3,780,169,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $2,700,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $5,211,732,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

33 USC 776.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,987,000, together with not to exceed $1,450,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees

and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $5,142,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,590,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $28,120,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge. 26 USC 7443 note.

This title may be cited as the "Independent Agencies Appropriations Act, 1990".

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former posi-

tion and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505A. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

40 USC 490c.

SEC. 506. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 507. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 508. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 509. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 510. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 511. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 512. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 513. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

Abortion.

SEC. 514. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 515. The provision of section 514 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 516. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

Contracts.
Washington.

SEC. 517. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 518. Funds under this Act shall be available as authorized by sections 4501–4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1990.

SEC. 519. (a) Notwithstanding any other provision of law, during fiscal year 1990, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1990 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1990, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 520. None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

SEC. 521. The Office of Personnel Management may, during the fiscal year ending September 30, 1990, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

SEC. 522. The Commissioner of the Internal Revenue Service shall take such action as necessary to maintain the existing staffing level without any downgrading of existing employees at the Detroit Data Center in the course of modifying certain payroll and personnel processing operations in the Office of Fiscal Operations and in the Resources Systems Development Division and modifying the capacities of the Center to achieve backup compatibility with the Internal Revenue Service Martinsburg Computer Center in West Virginia. Government organization and employees. Michigan.

SEC. 523. The Director of National Drug Control Policy, as established by the Anti-Drug Abuse Act of 1988, Public Law 100-690, 102 Stat. 4181, (1989), is hereby authorized in cooperation with the Administrator of General Services to select a site not to exceed 30,000 occupiable square feet for housing the Office of National Drug Control Policy suitable to meet the mission and security requirements of such Office, and the Administrator of General Services is hereby authorized to enter into a lease for such site under such terms and conditions as the Administrator finds to be in the best interests of the United States, notwithstanding any other provisions of law. Contracts.

SEC. 524. Notwithstanding any other provision of law, the United States Customs Service may acquire by purchase land in the Bahamas for the operation of an aerostat site. Appropriations for the Air Program shall be available for the acquisition of such land.

SEC. 525. The Director of the Office of Management and Budget shall take appropriate action to provide that the official title of the metropolitan statistical area which includes Allentown, Bethlehem, and Easton, Pennsylvania, shall be the "Allentown-Bethlehem-Easton Metropolitan Statistical Area". Pennsylvania.

SEC. 526. Section 631 of the "Treasury, Postal Service and General Government Appropriations Act, 1989" (Public Law 100-440) is amended by striking "December 22, 1987" and inserting in lieu thereof "October 1, 1983". The amendment made by this section shall be effective as if it had been included in Public Law 100-440. 102 Stat. 1759. Effective date.

SEC. 527. The Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by adding at the end thereof:

"SEC. 12. In carrying out the protection of the President of the United States, pursuant to section 3056(a) of title 18, at the one non-governmental property designated by the President of the United States to be fully secured by the United States Secret Service on a permanent basis, as provided in section 3.(a) of Public Law 94-524, the Secretary of the Treasury may utilize, with their consent, the law enforcement services, personnel, equipment, and facilities of the affected State and local governments. Further, the Secretary of the Treasury is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. All claims for such reimbursement by the affected governments will be submitted to the Secretary of the Treasury on a quarterly basis. Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year: *Provided*, That the designated site is located in a municipality or political subdivision of any State where the permanent resident population is 7,000 or less and where the absence of such Federal assistance would place an State and local governments.

undue economic burden on the affected State and local governments.".

26 USC 89 note.

SEC. 528. No monies appropriated by this Act may be used to implement or enforce section 1151 of the Tax Reform Act of 1986 or the amendments made by such section.

SEC. 529. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

Effective date.

Wages.
Government organization and employees.

SEC. 530. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

31 USC 1343 note.

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

5 USC 3101 note.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after

January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and

specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

5 USC 5343 note.

SEC. 612. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1990, or September 30, 1991, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1989, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1990, and that portion of fiscal year 1991, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1991, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1990.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the

rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1989, shall be determined under regulations prescribed by the Office of Personnel Management. Regulations.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1989, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1989. Wages. Effective date.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each Reports. 5 USC prec. 3341 note.

person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. Section 622(b) of this Act shall have no force and effect.

SEC. 618. No funds appropriated in this or any other Act for fiscal year 1990 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

Classified information.

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term classifiable;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)–(5) of this section.

Wages.
5 USC 5305 note.

SEC. 619. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1990, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the

rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 3.6 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1990.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1989, and before October 1, 1990, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1989, was equal to or greater than the rate of basic pay described in paragraph (3); or

(B) to a rate exceeding the rate of basic pay described in paragraph (3) if, as of September 30, 1989, the rate of salary or basic pay payable for that office or position was less than the rate described in such paragraph.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1989, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia; President of U.S.

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or Congress.

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(3) The rate of basic pay described in this paragraph is the rate equal to the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, as of September 30, 1989, increased by 3.6 percent.

SEC. 620. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 621. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

Drugs and drug abuse.
Government organization and employees.

SEC. 622. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1990, or under any other Act appropriating funds for fiscal year 1990, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workpiaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payments, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 624. Notwithstanding section 1346 of title 31, United States Code, or section 608 of Public Law 100-440, funds made available for fiscal year 1990 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 625. (a) Section 5384(c) of title 5, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end thereof the following:

"(2) not less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with

respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.".

(b) Section 5381 of title 5, United States Code, is amended by inserting " 'career appointee'," before "and".

(c) None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the Senior Executive Service upon reassignment or transfer.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1990".

Approved November 3, 1989.

LEGISLATIVE HISTORY—H.R. 2989:

HOUSE REPORTS: No. 101-170 (Comm. on Appropriations) and No. 101-276 (Comm. of Conference).
SENATE REPORTS: No. 101-105 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 28, considered and passed House.
Aug. 4, considered and passed Senate, amended.
Oct. 17, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 18, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 3, Presidential statement.

Public Law 101-137
101st Congress

An Act

Nov. 3, 1989
[H.R. 3281]

To reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 2. FLOOD ZONE DATA.

Section 1360(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph (2) and inserting the following:

"(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.".

SEC. 3. REPORT ON FEDERAL ASSUMPTION OF FLOOD INSURANCE PROGRAM.

Section 1340(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4071(b)) is amended to read as follows:

"(b) Upon making the determination referred to in subsection (a), the Director shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 1310 of this Act. Such report shall—

"(1) state the reason for such determinations,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

"(4) contain such recommendations as the Director deems advisable.

The Director shall not implement the program of flood insurance authorized under chapter I through the facilities of the Federal Government until 9 months after the date of submission of the

report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.".

SEC. 4. AUTHORIZATION FOR STUDIES.

Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated for studies under this title not to exceed $36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991".

SEC. 5. SEA LEVEL RISE STUDY.

42 USC 4014 note.

The Director of the Federal Emergency Management Agency shall conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps. This study shall also project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region. The Director shall report the results of this study to the Congress not later than one year after the date of enactment of this Act. Funds for such study shall be made available from amounts appropriated under secton 1376(c) of the National Flood Insurance Act of 1968.

Reports.

SEC. 6. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1989" in the matter preceding paragraph (1) and inserting "September 30, 1991".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(c) LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended—

(1) by striking "September 30, 1989" and inserting "September 30, 1991"; and

(2) by striking "5 percent" and inserting "15 percent".

(d) ANNUAL REPORT.—Section 1234 of the National Housing Act (12 U.S.C. 1749bbb-10d) is amended to read as follows:

"REPORTS ON OPERATIONS

"SEC. 1234. The Director shall report to the Congress not less than annually on the program authorized by this title. The reports under this section shall include—

"(1) full and complete information on the operations and activities of the Director under this part, together with such recommendations with respect thereto as the Director may deem appropriate; and

"(2) a detailed justification of any increase in premium rates charged for crime insurance made during the period for which the report is submitted.".

SEC. 7. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

42 USC 1485.

42 USC 1490.

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

42 USC 1490c.

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

42 USC 1490m note.

(d) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 8. EXTENSION OF EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.

Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 9. DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF PROGRAMS.—The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1989" and inserting "August 10, 1990".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal year 1990, not to exceed $50,000,000 to carry out the provisions of section 303.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal year 1990 may not exceed $50,000,000.".

Approved November 3, 1989.

LEGISLATIVE HISTORY—H.R. 3281 (S. 1672) (*See* H.J. Res. 412):

SENATE REPORTS: No. 101-142 accompanying S. 1672 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Sept. 19, considered and passed House.

Sept. 27, considered and passed Senate, amended, in lieu of S. 1672.

Oct. 5, House concurred in Senate amendment with amendments.

Oct. 24, Senate concurred in House amendments.

Public Law 101-138
101st Congress

Joint Resolution

Designating November 17, 1989, as "National Philanthropy Day".

Nov. 3, 1989
[S.J. Res. 86]

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such organizations employ more than 10,000,000 individuals, including 4,500,000 volunteers;

Whereas the people of the United States contributed approximately $94,000,000,000 in 1987 to support such organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and community service organizations, and to the institutions and organizations which aid and comfort disadvantaged, sick or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills and resources of individuals who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 17, 1989, is designated as "National Philanthropy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved November 3, 1989.

LEGISLATIVE HISTORY—S.J. Res. 86:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 21, considered and passed Senate.
Oct. 24, considered and passed House.

Public Law 101-139
101st Congress

Joint Resolution

Nov. 3, 1989
[S.J. Res. 120]

To designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week".

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States, and could not name the New England States;

Whereas, according to a recent Gallup poll, Americans ranked among the bottom third on an international test of geography knowledge, and those age eighteen to twenty-four came in last;

Whereas geography has been offered to fewer than one in ten United States secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world;

Whereas, one-third of adult Americans cannot name four of the sixteen NATO member nations, and another one-third cannot name any; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 12, 1989, and ending November 18, 1989, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 3, 1989.

LEGISLATIVE HISTORY—S.J. Res. 120:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Oct. 24, considered and passed House.

Public Law 101-140
101st Congress

Joint Resolution

Nov. 8, 1989
[H.J. Res. 280]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection, and inserting in lieu thereof "$3,122,700,000,000".

TITLE II—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 201. AMENDMENT OF 1986 CODE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

26 USC 89 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

26 USC 6652, 79, 105, 120, 127, 129, 125, 117, 132, 505.

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

26 USC 3121, 3231, 3306, 3401, 4976, 505, 129, 117, 120, 127, 132; 42 USC 409.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan

maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed. 26 USC 89 notes.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—

"(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church plan' and 'church employee' have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer

pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

26 USC 79 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—

(1) IN GENERAL.—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: "If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(2) EXCLUDED EMPLOYEES.—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

"(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

"(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers."

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) DELAY IN APPLICATION OF BENEFITS TEST.—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (8)".

(C) Section 129(e)(6) is amended by striking "(7)" and inserting "(8)".

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31, 1989. 26 USC 129 note.

(b) LINE OF BUSINESS TEST.— 26 USC 414 note.

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP-TERM LIFE INSURANCE.—Paragraph (7) of section 505(b) (relating to $200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988. 26 USC 129 note.

(2) The amendments made by subsection (a)(3) shall apply to plan years beginning after December 31, 1989. 26 USC 129 note.

(3) The provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986. 26 USC 414 note.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988. 26 USC 505 note.

TITLE III—RESTORATION OF TRUST FUNDS

SEC. 301. RESTORATION OF TRUST FUNDS. 31 USC 3101 note.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) INTEREST ON MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) CREDITED AMOUNTS TREATED AS INTEREST.—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(d) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD.—The term "debt issuance suspension period" means the period beginning on or after October 31, 1989 and ending on the date of enactment of this Act.

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect

of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

Approved November 8, 1989.

LEGISLATIVE HISTORY—H.J. Res. 280:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 17, considered and passed House pursuant to H. Con. Res. 106.
Nov. 7, considered and passed Senate, amended. House concurred in Senate amendment.

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Public Law 101-141
101st Congress

Joint Resolution

Nov. 8, 1989
[S.J. Res. 19]

To designate November 8, 1989, as "Montana Centennial Day".

Whereas for a century the people of Montana have made substantial contributions to the economic and social well-being of the United States of America;

Whereas the State of Montana, known as "Big Sky Country", with wide vistas and scenic mountains, is a State of incomparable beauty; and

Whereas the history of Montana is forever intertwined with the history of westward expansion in the United States of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 8, 1989, is designated as "Montana Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Montana to the United States of America over the past century.

Approved November 8, 1989.

LEGISLATIVE HISTORY—S.J. Res. 19:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
Nov. 7, considered and passed House.

Public Law 101-142
101st Congress

Joint Resolution

Designating October 25, 1989, as "National Arab-American Day".

Nov. 8, 1989
[H.J. Res. 241]

Whereas the rich history and tradition of Arab culture has contributed to western civilization in many fields, including science, medicine, geography, and architecture;

Whereas the contributions made by Arab culture transcend geographic, political, and religious classification;

Whereas Arab-Americans have made, and continue to make, important contributions to the economic prosperity and cultural life of our Nation since October 1854, when the first recorded Arab immigrant arrived in the United States;

Whereas the term "Arab" represents a people who are followers of the 3 great monotheistic religions and are bound by the common language of Arabic;

Whereas Arabs are of one origin, but are citizens of many countries;

Whereas Arab-Americans have worked hard since their arrival and have been productive United States citizens; and

Whereas the people of the United States should always remember that there are almost 3,000,000 Arab-Americans who are a part of the mosaic of cultures of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 25, 1989, is designated as "National Arab-American Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize this day by becoming aware of the rich cultural traditions of Arab-Americans and by participating in appropriate ceremonies and activities.

Approved November 8, 1989.

LEGISLATIVE HISTORY—H.J. Res. 241:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 24, considered and passed House.
Oct. 25, considered and passed Senate.

Public Law 101-143
101st Congress

Joint Resolution

Nov. 8, 1989
[H.J. Res. 131]

To designate May 25, 1989, as "National Tap Dance Day".

Whereas the multifaceted art form of tap dancing is a manifestation of the cultural heritage of our Nation, reflecting the fusion of African and European cultures into an exemplification of the American spirit, that should be, through documentation, and archival and performance support, transmitted to succeeding generations;

Whereas tap dancing has had a historic and continuing influence on other genres of American art, including music, vaudeville, Broadway musical theater, and film, as well as other dance forms;

Whereas tap dancing is perceived by the world as a uniquely American art form;

Whereas tap dancing is a joyful and powerful aesthetic force providing a source of enjoyment and an outlet for creativity and self-expression for Americans on both the professional and amateur level;

Whereas it is in the best interest of the people of our Nation to preserve, promote, and celebrate this uniquely American art form;

Whereas Bill "Bojangles" Robinson made an outstanding contribution to the art of tap dancing on both stage and film through the unification of diverse stylistic and racial elements; and

Whereas May 25, as the anniversary of the birth of Bill "Bojangles" Robinson, is an appropriate day on which to refocus the attention of the Nation on American tap dancing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1989, is designated "National Tap Dance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved November 8, 1989.

LEGISLATIVE HISTORY—H.J. Res. 131 (S.J. Res. 53):

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 25, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-144
101st Congress

An Act

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 9, 1989
[H.R. 2916]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, namely:

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,367,506,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $501,200,000, to remain available until expended. Any funds transferred to this account from the Veterans' Job Training appropriation under the authority of section 126 of Public Law 98-151 which were not returned to the Veterans' Job Training appropriation as authorized by section 16 of Public Law 98-77, as amended, shall be available until expended for all expenses of this account, which until March 31, 1990, shall be deemed to include such expenses as may be incurred in carrying out the purposes of section 18 of Public Law 98-77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $13,940,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $313,500,000, to remain available until expended.

During 1990, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1990, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Secretary of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1990, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

DIRECT LOAN REVOLVING FUND

During 1990, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5);

$11,549,431,000, plus reimbursements: *Provided,* That of the sum appropriated, $7,250,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That of the funds made available under this heading, $278,882,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1991, $216,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $46,112,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1991.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $7,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $817,059,000, including $553,329,000 for the Veterans Benefits Administration: *Provided,* That, during fiscal year 1990, jurisdictional average employment shall not be less than 12,600 for the Veterans Benefits Administration.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $21,949,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of

Veterans Affairs, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $420,249,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1990, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1990, and (2) by the awarding of a construction contract by September 30, 1991: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint.

Contracts.

Reports.

CONSTRUCTION, MINOR PROJECTS

(INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $113,699,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $44,136,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs

which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes: *Provided further,* That not to exceed $200,000 of the funds available shall be used to assist the City of Sturgis, South Dakota, in improving a wastewater treatment plant used by the Department of Veterans Affairs Medical Center, Fort Meade, South Dakota: *Provided further,* That up to $21,000,000 of the funds provided under this heading may be transferred to and merged with sums appropriated for "General operating expenses" or "Office of Inspector General".

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $29,375,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $42,000,000, to remain available until September 30, 1992.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $4,356,000, to remain available until September 30, 1992.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1990 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1990 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1990 for "Compensation and pensions", "Readjust-

ment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1989.

GENERAL PROVISION

Notwithstanding the earmarking of funds for the Veterans Benefits Administration identified in this Act within the general operating expenses appropriation, $565,329,000 of the $817,059,000 appropriated shall be for the Veterans Benefits Administration.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $8,115,221,525, to remain available until expended: *Provided*, That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $457,717,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,030,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $2,500,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,148,332,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to $318,545,152 shall be for section 8 assistance for property disposition; $782,521,950 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); and $1,373,060,823 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further*, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as

a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $143,490,000 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $8,115,221,525 provided herein, $324,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount, and the $20,000,000 appropriated under Public Law 100-404 for such program, shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That up to $14,000,000 of the funds provided under this heading may be transferred, merged, and added to sums appropriated for "Salaries and expenses" and any amount or amounts earmarked under this heading may be reduced accordingly.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsection (a) the following new subsection:

Contracts.
Loans.
Indians.
Alaska.

"(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988 shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

"(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

"(A) in the case of elevator type structures, 1.6; and

"(B) in the case of nonelevator type structures, 1.75.".

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475, to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further,* That to the extent any amount in this paragraph is insufficient for the purpose for which it is earmarked, the Secretary may supplement such amount with up to $90,000,000 from funds otherwise earmarked under this paragraph: *Provided further,* That to the extent such supplement is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $90,000,000 to fund such insufficiency, and the $1,373,060,823 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o), $130,000,000, to remain available until September 30, 1992: *Provided,* That section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1991".

42 USC 1490m note.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1990 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1990, $480,106,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 per centum of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That persons disabled as a result of infection with the human immunodeficiency virus shall be considered eligible for assistance under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q): *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1990 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

12 USC 1701q note.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $6,000,000, to remain available until September 30, 1991.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,795,600,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $3,500,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1989, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1990, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

Loans.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1990, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1990, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $83,000,000,000 of loan principal.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $75,000,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $130,000,000, to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $11,000,000, to remain available until expended.

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $75,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1992, of which $50,000,000 shall be derived by trans-

fer from amounts deobligated in fiscal year 1990 in the Urban Development Action Grants account: *Provided,* That not to exceed $93,400,000 shall be available for the discretionary fund established pursuant to section 107 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301): *Provided further,* That $1,200,000 of the $93,400,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1): *Provided further,* That of such $93,400,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park: *Provided further,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further,* That $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): *Provided further,* That after September 30, 1989, no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

42 USC 5304 note.

During fiscal year 1990, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal.

REHABILITATION LOAN FUND

During fiscal year 1990, collections, unexpended balances of prior appropriations (including any recoveries of prior obligations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1989, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Secretary of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Secretary of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,200,000, to remain available until expended.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $21,000,000, to remain available until September 30, 1991.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $12,753,000, to remain available until September 30, 1991: *Provided,* That not less than $6,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987 and the demonstration period authorized in section 561(e) of such Act shall be deemed to be September 30, 1990, except for purposes of construing the last sentence of section 561(c)(2) of such Act. 42 USC 3616 note.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $738,530,000, of which $397,278,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1990, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,402 for Public and Indian Housing Programs.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,065,000, of which $6,584,000 shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

Maryland.
Grants.

Notwithstanding any other provision of law or other requirement, the City of College Park, in the State of Maryland, is authorized to retain any categorical settlement grant funds, urban renewal grant funds, and land disposition proceeds that remain after the financial closeout of the Lakeland Urban Renewal Project (R-44 No. B-79-UR-24-0001), and to use such funds and proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of College Park shall retain such funds and proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds and proceeds, including any interest.

Connecticut.

Notwithstanding any other provision of law or other requirement, the City of Hartford in the State of Connecticut, is authorized to retain any land disposition proceeds from the financially closed-out Sheldon-Charter Oak, Section A Urban Renewal Project (No. Conn. R-77) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Hartford shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Pennsylvania.

It is hereby approved in accordance with section 124(c) of the Housing and Community Development Act of 1987 (Public Law 100-242, 101 Stat. 1815, 1847), that as specified in section 124(a) of such Act, accrued interest is forgiven and interest paid shall be returned to the City of Pittsburgh.

Washington.
Aged persons.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve, subject to availability of funds in project reserves, the use by the Seattle Housing Authority of up to $450,000 from project reserves of the Bay View Tower Project (No. 127-38044) for a program of health care services for the elderly, as determined by the Seattle Housing Authority.

12 USC 1709.

Section 203(b)(2) of the National Housing Act is amended by inserting "(185 percent during fiscal year 1990)" after "(A) 150 percent".

12 USC 1715z.

Section 235 of the National Housing Act is amended by adding at the end the following new subsection:

Loans.

"(r) REFINANCING.—

"(1) REVIEW OF ASSISTANCE PAYMENTS CONTRACTS.—

"(A) The Secretary shall periodically review each contract under which the Secretary is making assistance payments under this section to determine if a refinancing of the mortgage, loan, or advance of credit involved will result

in a sufficient reduction in assistance payments to warrant such refinancing.

"(B) In the case of assistance payments contracts in effect on the date of enactment of this section, the Secretary shall complete such review within 60 days in order to permit the refinancing to be completed during fiscal year 1990.

"(2) REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall offer financial assistance appropriate to encourage the refinancing. The assistance may include the following:

"(A) For lenders and mortgagees providing refinancing, the payment of reasonable mortgage or loan origination fees, discount points, and other expenses required to refinance; and

"(B) For the homeowner or cooperative member involved, the payment of an amount that does not exceed 1 percent of the principal amount refinanced.

"(3) METHOD OF PAYMENT OF REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall provide incentives in a manner that does not increase total expenditures in fiscal year 1990. The Secretary shall structure refinancings as follows:

"(A) Lenders and mortgagees providing refinancings under this subsection may charge an interest rate for refinancing that is not greater than 0.5 percent higher than the prevailing market rate for refinancing.

"(B) Payments to the homeowner or cooperative member to encourage refinancing shall be paid through a reduction in the monthly payment of the homeowner or cooperative member under the mortgage, loan, or advance of credit.

"(4) REVISION OF CONTRACTS AND RESCISSION OF EXCESS AMOUNTS.—

"(A) The Secretary shall make such revisions in any assistance payments contract (including the amount of assistance payments made under the contract) as are necessary to reflect a refinancing obtained pursuant to this subsection. A revised assistance payments contract under this paragraph shall not be considered to be a new contract under this section.

"(B) Any contract authority that becomes available as a result of the revision of an assistance payments contract under this paragraph shall be rescinded.".

Section 404 in title IV, General Provisions of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45) is hereby repealed.

103 Stat. 128.

If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department's September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.

42 USC 4822 note.

Of the amount appropriated in this Act under the heading "Annual contributions for assisted housing" and earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), the Secretary shall set aside and may use up to

$1,000,000 to indemnify any public housing agency that receives assistance under section 14 of the Act to test and abate lead-based paint in the Lead-Based Paint Abatement Demonstration Program under section 302(d)(2)(A) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(A)) and any person under contract with such agency, with respect to all or parts of claims arising from such testing or abatement, in accordance with the terms and conditions that the Secretary shall specify for the validation, processing, and payment of claims, and any other matters concerning the administration of the amount set aside: *Provided,* That any balances not obligated before October 1, 1992, shall be made available without regard to this paragraph.

Of the funds made available by this Act for Annual Contributions for Assisted Housing, $896,000 shall be for project-based assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) for the Ganado Acres project.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $16,000,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

36 USC 121b.

36 USC 122.

36 USC 122a.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $35,700,000: *Provided,* That not more than $325,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, $4,000,000: *Provided,* That such sum shall be available without regard to section 509 of this Act: *Provided further,* That, of the funds provided under this heading, there shall be transferred to and merged with sums appropriated for "DEPARTMENT OF VETERANS AFFAIRS, MEDICAL AND PROSTHETIC RESEARCH" such amount, not to exceed $1,000,000, as the Chief Judge of the Court of Veterans Appeals determines on or before July 1, 1990, to be excess to the needs of the Court during fiscal year 1990.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $12,569,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; acquisition or purchase, hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; lease purchase, under a lease purchase contract hereby authorized to be entered into by the Environmental Protection Agency, which lease purchase contract shall have a term not to exceed twenty years and shall provide that title to the property shall vest in the United States at or before the expiration of the lease term, for the Motor Vehicles Emissions Laboratory; construction, alteration, repair, rehabilitation, and renovation of

Contracts.

facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $874,583,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, $31,734,000, of which $10,317,000 shall be derived from the Hazardous Substance Superfund trust fund.

RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For research and development activities, $241,500,000, to remain available until September 30, 1991: *Provided,* That not more than $11,600,000 of these funds shall be available for procurement of laboratory equipment: *Provided further,* That up to $5,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Salaries and expenses".

ABATEMENT, CONTROL, AND COMPLIANCE

(INCLUDING TRANSFER OF FUNDS)

For abatement, control, and compliance activities, $829,940,000, to remain available until September 30, 1991: *Provided,* That up to $10,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Salaries and expenses": *Provided further,* That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $15,000,000, of which $3,000,000 shall be made available as a grant for an environmental laboratory addition to be constructed and owned by the University of Nevada, under such terms and conditions as the Administrator deems appropriate, with all of such sums, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,575,000,000, to be derived from the Hazardous Substance Superfund, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $82,000,000 during fiscal year 1990, with all of such funds to remain available until expended: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further,* That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $46,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA, as amended, during fiscal year 1990: *Provided further,* That section 9611(c)(12) of the Superfund Amendments and Reauthorization Act of 1986, is amended by striking "$10,000,000" and inserting "$20,000,000": *Provided further,* That no more than $220,000,000 of these funds shall be available for administrative expenses. 42 USC 9611.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $76,000,000, to remain available until expended: *Provided,* That no more than $6,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

(INCLUDING RESCISSION)

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,050,000,000, to remain available until expended, of which $1,002,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $1,002,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $46,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $7,000,000 for section 510, $20,000,000 for section 513, and $19,000,000 for section 515: *Provided,* That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal Water Pollution Control Act, as amended, $47,700,000 are rescinded: *Provided further,* That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the

Taxes.
Loans.

construction of publicly owned treatment works as defined in section 212 of that Act: *Provided further,* That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $15,000,000 for the establishment of a special revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso. Repayment amounts may remain in the special revolving fund for future loans to colonia residents, and funds set aside but not used for loans, including repayment amounts, may be transferred by the State to its general title VI revolving fund. Loans from the special revolving fund shall be made for the purposes of connecting residences to sewer collection systems and making any necessary plumbing improvements to enable such residences to meet existing county or city code requirements. The Texas Water Development Board is authorized to use funds from this set-aside for the administrative expenses of the special revolving fund: *Provided further,* That, notwithstanding any provision of law, from sums appropriated under this paragraph and before allotment of title II funds to the States under section 205, the Administrator shall award a grant under title II for $6,800,000 for construction of a connector sewer line, consisting of a main trunk line and four pump stations, for the Town of Honea Path, South Carolina to the wastewater treatment facility in the Town of Ware Shoals, South Carolina: *Provided further,* That, notwithstanding any other provision of law, sums appropriated under this heading allotted for title VI capitalization grants to American Samoa, Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of Palau (or its successor entity), Virgin Islands and the District of Columbia, may be used for title II construction grants at the request of the chief executive of each of the above named entities.

South Carolina.

ADMINISTRATIVE PROVISIONS

42 USC 4370b.

Notwithstanding any other provision of law, after September 30, 1990, amounts deposited in the Licensing and Other Services Fund from fees and charges assessed and collected by the Administrator for services and activities carried out pursuant to the statutes administered by the Environmental Protection Agency shall thereafter be available to carry out the Agency's activities in the programs for which the fees or charges are made.

In order to promote the development of innovative technology for the study, mitigation and management of hazardous and toxic substances, the Administrator of the Environmental Protection Agency may lease a portion of the Environmental Technology and Engineering Center located in Edison, New Jersey to the New Jersey Institute of Technology, under such terms and conditions which he determines to be in the public interest, for a term not to exceed ten years. Such lease may be with or without consideration and any compensation received may be used by the Agency to defray costs of providing the space and supporting services.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $1,500,000.

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,000,000: *Provided,* That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $2,897,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $142,499,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $2,639,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $275,290,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $10,734,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $40,303,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities. In fiscal year 1990, no funds in excess of (1) $32,000,000 for operating expenses, (2) $165,000,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,360,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1990 shall not exceed $2,092,000. Appropriations, reve-

nues and collections accruing to this fund during fiscal year 1990 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,888,000.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, $1,100,000, to remain available until expended: *Provided,* That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act. 42 USC 11313 note.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,366,050,000, to remain available until September 30, 1991: *Provided,* That of the funds made available under this heading, $1,800,000,000 is for the Space Station Program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That of the funds made available under this heading, $320,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That of $2,064,600,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That no funds appropriated by this Act or any other Act may be used to enter into contracts of the National Aeronautics and Space

Administration for the comet rendezvous and asteroid flyby and Cassini missions (CRAF/Cassini) if the estimated total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, exceeds $1,600,000,000.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $4,614,600,000, to remain available until September 30, 1991: *Provided,* That of the funds made available under this heading, $1,400,000,000 is for space transportation system only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That $75,000,000 of the funds appropriated in section 101(g) of Public Law 99-591 for orbiter production shall be available until September 30, 1991, for all expenses of this account.

CONSTRUCTION OF FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $601,300,000, to remain available until September 30, 1992: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act

would be inconsistent with the interest of the Nation in aeronautical and space activities: *Provided further,* That up to $152,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Space flight, control and data communications" and/or "Research and program management": *Provided further,* That of the amounts transferred under the authority of the foregoing proviso, not to exceed $85,000,000 may be for "Space flight, control and data communications", and not to exceed $67,000,000 may be for "Research and program management": *Provided further,* That in addition to the foregoing transfers, up to $25,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Research and development".

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, purchase of one aircraft for replacement only (for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,982,200,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive: *Provided further,* That of the funds made available under this heading, up to $195,000 may be transferred to the "Office of Inspector General": *Provided further,* That the grade retention provisions of 5 U.S.C. 5362 shall remain available to Goddard Space Flight Center employees of the National Aeronautics and Space Administration, displaced by the conversion on September 3, 1989, of their civil service positions to private sector positions, from the time an affected employee is placed in a lower graded position until one or more of the conditions of 5 U.S.C. 5362(d) is met.

Government organization and employees.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $8,795,000.

ADMINISTRATIVE PROVISIONS

SMALL AND DISADVANTAGED BUSINESS

The NASA Administrator shall annually establish a goal of at least 8 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space

Minorities.
42 USC 2473b.

station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

POLAR PLATFORM

Of the funds made available in this Act for space station development, not more than $10,700,000 shall be reduced from the $107,000,000 requested for work performed on or under the work package numbered 3 prime contract (polar platform).

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1990, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1990 shall not exceed $864,000.

ADMINISTRATIVE PROVISION

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of law, the Board may exercise the authority granted it by the Community Development Credit Union Revolving Loan Fund Transfer Act (Public Law 99-609, sec. 1, Nov. 6, 1986, 100 Stat. 3475) subject only to the rules and regulations prescribed by the Board.".

NATIONAL INSTITUTE OF BUILDING SCIENCES

PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

For payment to the National Institute of Building Sciences, $500,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representa-

tion expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,715,000,000, to remain available until September 30, 1991 of which $900,000,000 shall not be available for obligation until April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $97,900,000 shall be available for program development and management in fiscal year 1990: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1990 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That none of the funds appropriated in this Act may be used directly or through grants, contracts or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,000,000, to remain available until September 20, 1991: *Provided,* That funds made available under this heading shall not be available for obligation until September 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $74,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies: *Provided further,* That no funds in this or any other Act shall be used to acquire or lease a research vessel with ice-breaking capability built by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable foreign vessel bid: *Provided further,* That, in determining the cost of such a vessel, such cost be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: *Provided further,* That if the vessel contracted for pursuant to the foregoing is not available for the 1989-1990 austral summer Antarctic season, a vessel of any origin may be leased for a period of not to exceed 120 days for that season and each season thereafter until delivery of the new vessel: *Provided further,* That the preceding three provisos shall not apply to appropriated funds used for the lease of the vessel POLAR DUKE, nor for procurements covered by the GATT Agreement on Government Procurement: *Provided further,* That the vessel contracted for pursuant to the foregoing shall be of United States registry.

Maritime affairs.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $82,000,000, to remain available until expended: *Provided,* That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $210,000,000, to remain available until September 30, 1991: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $2,600,000, to remain available until September 30, 1991.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $27,260,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,313,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated for in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to

Contracts.

fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1990 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Loans.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: *Provided,* That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

Reports.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor,

as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to any part of the appropriations (including transfers) contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties interven-

ing in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts. Public information.

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts. Reports.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

Wages. Government organization and employees.

SEC. 515. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Government organization and employees.

SEC. 516. After January 1, 1990, and for the duration of fiscal year 1990, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 per centum of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1989.

SEC. 517. Notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

"Direct loan revolving fund", $15,000;

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATON

"Medical care", $115,339,000;
"Medical and prosthetic research", $3,348,000;
"Medical administration and miscellaneous operating expenses", $715,000;
"Grants to the Republic of the Philippines", $8,000;

DEPARTMENTAL ADMINISTRATION

"General operating expenses", $12,664,000;
"Office of Inspector General", $340,000;
"Construction, major projects", $6,514,000;
"Construction, minor projects ", $1,762,000;
"Parking garage revolving fund", $455,000;
"Grants for construction of State extended care facilities", $651,000;
"Grants for the construction of State veterans cemeteries", $68,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

"Annual contributions for assisted housing", $125,786,525;
"Assistance for the renewal of expiring section 8 subsidy contracts", $16,925,475;
"Rental rehabilitation grants", $2,015,000;
"Housing for the elderly or handicapped fund", $7,442,000;
"Congregate services", $93,000;
"Payments for operation of low-income housing projects", $27,832,000;
"Housing counseling assistance", $54,000;
"Federal Housing Administration Fund" (limitation on guaranteed loans), $1,162,500,000;
"Federal Housing Administration Fund" (temporary mortgage assistance payments), $1,373,000;
"Nonprofit sponsor assistance", $17,000;

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

"Guarantees of mortgage-backed securities", $1,286,500,000;

HOMELESS ASSISTANCE

"Emergency shelter grants program", $1,162,000;
"Transitional and supportive housing demonstration program", $2,015,000;
"Supplemental assistance for facilities to assist the homeless", $170,000;
"Section 8 moderate rehabilitation single room occupancy", $1,162,000;

COMMUNITY PLANNING AND DEVELOPMENT

"Community development grants", $46,500,000;
"Community development grants" (by transfer), $775,000;
"Community development grants" (limitation on guaranteed loans), $2,232,000;
"Urban homesteading", $205,000;

POLICY DEVELOPMENT AND RESEARCH

"Research and technology", $325,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing activities", $198,000;

MANAGEMENT AND ADMINISTRATION

"Salaries and expenses", $11,447,000;
"Salaries and expenses" (by transfer, limitation on FHA corporate funds), $6,158,000;
"Office of Inspector General", $481,000;
"Office of Inspector General" (by transfer, limitation on FHA corporate funds), $102,000;

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $248,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $553,000;

COURT OF VETERANS APPEALS

"Salaries and expenses", $62,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", $195,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $13,556,000;
"Office of Inspector General", $492,000;
"Research and development", $3,743,000;
"Abatement, control, and compliance", $12,864,000;
"Buildings and facilities", $232,000;
"Hazardous Substance Superfund", $24,412,000;
"Hazardous Substance Superfund" (limitation on administrative expenses), $3,410,000;
"Leaking underground storage tank trust fund", $1,178,000;
"Leaking underground storage tank trust fund" (limitation on administrative expenses), $93,000;
"Construction grants", $31,775,000;

EXECUTIVE OFFICE OF THE PRESIDENT

"Council on Environmental Quality and Office of Environmental Quality", $23,000;
"National Space Council", $15,000;
"Office of Science and Technology Policy", $45,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

"Disaster relief", $1,550,000;
"Salaries and expenses", $2,209,000;
"Office of Inspector General", $41,000;
"Emergency Management Planning and Assistance", $4,267,000;
"Emergency Food and Shelter Program", $2,077,000;

GENERAL SERVICES ADMINISTRATION

"Consumer Information Center", $21,000;
"Consumer Information Center" (limitiation on administrative expenses), $32,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

"Office of Consumer Affairs", $29,000;

INTERAGENCY COUNCIL ON THE HOMELESS

"Salaries and expenses", $17,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $84,174,000;
"Space flight, control and data communications", $71,526,000;
"Construction of facilities", $9,320,000;
"Research and program management", $30,724,000;
"Office of Inspector General", $136,000;

NATIONAL CREDIT UNION ADMINISTRATION

"Central liquidity facility" (limitation on direct loans), $9,300,000;
"Central liquidity facility" (limitation on administrative expenses, corporate funds), $13,000;

NATIONAL INSTITUTE OF BUILDING SCIENCES

"Payment to the National Institute of Building Sciences", $8,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $26,582,000;
"Research and related activities" (program development and management), $1,517,000;
"Academic research facilities", $310,000;
"United States Antarctic program activities", $1,147,000;
"United States Antarctic logistical support activities", $1,271,000;
"Science education activities", $3,255,000;
"Office of Inspector General", $40,000;

NEIGHBORHOOD REINVESTMENT CORPORATION

"Payment to the Neighborhood Reinvestment Corporation", $423,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $408,000.

In carrying out these reductions, each amount earmarked in this Act and not otherwise specified in this section shall be reduced in proportion to the overall reduction in the applicable account with the exception of the earmarking for personnel compensation and benefits costs carried in the Department of Veterans Affairs "Medical care" appropriating paragraph which shall not be reduced.

Government organization and employees.
5 USC 6302 note.

SEC. 518. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

SEC. 519. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990".

Approved November 9, 1989.

LEGISLATIVE HISTORY—H.R. 2916:

HOUSE REPORTS: No. 101-150 (Comm. on Appropriations) and No. 101-297 (Comm. of Conference).
SENATE REPORTS: No. 101-128 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 20, considered and passed House.
Sept. 18, 19, 28, considered and passed Senate, amended.
Oct. 24, 25, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 27, Senate agreed to conference report; concurred in certain House amendments and disagreed to another.
Oct. 31, House receded and concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 9, Presidential statement.

Public Law 101-145
101st Congress

Joint Resolution

To designate November 1989 as "National Diabetes Month".

Nov. 9, 1989
[S.J. Res. 131]

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes affects over eleven million Americans, of whom almost six million are not aware of their illness;

Whereas diabetes costs the Nation $20,400,000,000 annually in health care costs, disability payments, and increased mortality due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, Native Americans, and women; and

Whereas diabetes is a leading cause of new blindness, kidney disease, heart disease, strokes, birth defects, and foot and leg amputations, all of which can be reduced by better public understanding and awareness of diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1989 is designated as "National Diabetes Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved November 9, 1989.

LEGISLATIVE HISTORY—S.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, considered and passed Senate.
Oct. 31, considered and passed House.

Public Law 101-146
101st Congress

Joint Resolution

Nov. 9, 1989
[S.J. Res. 209]

To designate November 11, 1989 as "Washington Centennial Day".

Whereas on November 11, 1889, at 5 o'clock and twenty-seven minutes, President Benjamin Harrison signed a proclamation declaring Washington a State;

Whereas Washington is known as the Evergreen State;

Whereas Washington State has become a national leader in aviation, computer software, education, health care, commerce, and trade;

Whereas Washington State's beautiful mountains, trees, waters, and fields are appreciated and preserved; and

Whereas on November 11, 1989, Washington State will see the dawn of a new century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11, 1989, is designated as "Washington Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Washington to the United States of America over the past century.

Approved November 9, 1989.

LEGISLATIVE HISTORY—S.J. Res. 209:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 29, considered and passed Senate.
Oct. 31, considered and passed House.

Public Law 101-147
101st Congress

An Act

To amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such Acts, and for other purposes.

Nov. 10, 1989
[H.R. 24]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Nutrition and WIC Reauthorization Act of 1989.
49 USC 1751 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Nutrition and WIC Reauthorization Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Effective date.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

PART A—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT

Sec. 101. Types of milk to be included in school lunches.
Sec. 102. Extension of summer food service program for children.
Sec. 103. Extension of commodity distribution program.
Sec. 104. Repeal of National Advisory Council.
Sec. 105. Child care food program.
Sec. 106. Meal supplements for children in afterschool care.
Sec. 107. Pilot projects.
Sec. 108. Reduction of paperwork.
Sec. 109. Training, technical assistance, and food service management institute.
Sec. 110. Compliance and accountability.
Sec. 111. Information on income eligibility.
Sec. 112. Nutrition guidance for child nutrition programs.

PART B—PROGRAMS UNDER THE CHILD NUTRITION ACT OF 1966

Sec. 121. Expansion of school breakfast program.
Sec. 122. State administrative expenses.
Sec. 123. Additional activities and requirements with respect to special supplemental food program for women, infants, and children.
Sec. 124. Nutrition education and training.

PART C—CROSS-PROGRAM PROVISION

Sec. 131. Determination of total commodity assistance for the school lunch and child care food programs.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

PART A—REDUCTION OF PAPERWORK UNDER THE NATIONAL SCHOOL LUNCH ACT

Sec. 201. Permanency of State-local agreements for carrying out the school lunch program.
Sec. 202. Income documentation requirements.
Sec. 203. Reports to State educational agencies.
Sec. 204. 2-year applications under child care food program.
Sec. 205. Pilot projects for alternative counting methods.

PART B—REDUCTION OF PAPERWORK UNDER THE CHILD NUTRITION ACT OF 1966

Sec. 211. State-local agreements for carrying out the special milk program

Sec. 212. Permanency of State-local agreements for carrying out the school breakfast program.
Sec. 213. Paperwork reduction requirements under the special supplemental food program for women, infants, and children.
Sec. 214. Updating of plans for nutrition education and training.

TITLE III—TECHNICAL AMENDMENTS

PART A—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

Sec. 301. Apportionments to States.
Sec. 302. Direct Federal expenditures.
Sec. 303. Payments to States.
Sec. 304. State disbursement to schools.
Sec. 305. Nutritional and other program requirements.
Sec. 306. Miscellaneous provisions and definitions.
Sec. 307. Summer food service program for children.
Sec. 308. Repeal of obsolete provision relating to temporary emergency assistance.
Sec. 309. Election to receive cash payments.
Sec. 310. Child care food program.
Sec. 311. Pilot projects.
Sec. 312. General amendments.

PART B—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

Sec. 321. Special milk program authorization.
Sec. 322. School breakfast program authorization.
Sec. 323. Regulations.
Sec. 324. Appropriations for administrative expense.
Sec. 325. Miscellaneous provisions and definitions.
Sec. 326. Special supplemental food program.
Sec. 327. Nutrition education and training.

42 USC 1751 note.

SEC. 2. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

PART A—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT

SEC. 101. TYPES OF MILK TO BE INCLUDED IN SCHOOL LUNCHES.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)), as similarly amended first by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4202 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) GENERAL AUTHORITY.—Paragraph (2) of section 9(a) of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758(a)) is amended to read as follows:

"(2) Lunches served by schools participating in the school lunch program under this Act shall offer students fluid whole milk and fluid unflavored lowfat milk.".

SEC. 102. EXTENSION OF SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)—

(A) by amending subparagraph (C) of paragraph (3) to read as follows:

"(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist; Disadvantaged persons.

"(ii) conduct a regularly scheduled food service primarily for homeless children; or Homeless persons.

"(iii) qualify as camps; and",

(B) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by inserting after subparagraph (E) the following new subparagraph:

"(F) private nonprofit organizations eligible under paragraph (7).";

(C) in paragraph (7)—

(i) by amending subparagraph (A) to read as follows:

"(A) Except as provided in subparagraph (C), private nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.";

(ii) in subparagraph (B)—

(I) by amending clause (i) to read as follows:

"(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or Urban areas.

"(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);"; Rural areas.

(II) in clause (ii), by inserting "or a school participating in the school lunch program under this Act" after "university)"; and

(III) in clause (v), by inserting "or families" after "children"; and

(iii) by adding at the end the following new subparagraph:

"(C)(i) Except as provided in clause (ii), no private nonprofit organization (other than organizations eligible under paragraph (1)) may participate in the program in an area where a school food authority or a local, municipal, or county government participated in the program before such organization applied to participate until the expiration of the 1-year period beginning on the date that such school food authority or local, municipal, or county government terminated its participation in the program.

"(ii) Clause (i) shall not apply if the appropriate State agency or regional office of the Department of Agriculture (whichever administers the program in the area concerned), after consultation with

the school food authority or local, municipal, or county government concerned, determines that such school food authority or local, municipal, or county government would have discontinued its participation in the program regardless of whether a private nonprofit organization was available to participate in the program in such area.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

Disadvantaged persons.

"(2)(A) Notwithstanding any other provision of this Act, any higher education institution that receives reimbursements under the program for meals and meal supplements served to low-income children under the National Youth Sports Program is eligible to receive reimbursements for not more than 2 meals or 1 meal and 1 meal supplement per day for not more than 30 days for each child participating in a National Youth Sports Program operated by such institution during the months other than May through September.

State and local governments.

The program under this paragraph shall be administered within the State by the same State agency that administers the program during the months of May through September.

"(B) Children participating in National Youth Sports Programs operated by higher education institutions, and such higher education institutions, shall be eligible to participate in the program under this paragraph without application.

"(C) Higher education institutions shall be reimbursed for meals and meal supplements served under this paragraph—

"(i) in the case of lunches and suppers, at the same rates as the payment rates established for free lunches under section 11; and

"(ii) in the case of breakfasts or meal supplements, at the same rates as the severe need payment rates established for free breakfasts under section 4 of the Child Nutrition Act of 1966.

"(D)(i) Meals for which a higher education institution is reimbursed under this paragraph shall fulfill the minimum nutritional requirements and meal patterns prescribed by the Secretary—

"(I) for meals served under the school lunch program under this Act, in the case of reimbursement for lunches or suppers; and

"(II) for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966, in the case of reimbursement for breakfasts.

"(ii) The Secretary may modify the minimum nutritional requirements and meal patterns prescribed by the Secretary for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966 for application to meal supplements for which a higher education institution is reimbursed under this paragraph.

Regulations.

"(E) The Secretary shall issue regulations governing the implementation, operation, and monitoring of programs receiving assistance under this paragraph that, to the maximum extent practicable, are comparable to those established for higher education institutions participating in the National Youth Sports Program and receiving reimbursements under the program for the months of May through September.";

(3) in the first sentence of subsection (l)(1), by inserting "(other than private nonprofit organizations eligible under subsection (a)(7))" after "Service institutions";

(4) by redesignating subsection (p) as subsection (r);

(5) by inserting after subsection (o) the following new subsections:

State and local governments.

"(p) During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of private nonprofit organizations for the program established under this section.

State and local governments.

"(q)(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

"(2) Application forms or other printed materials provided by the Secretary or the States to persons who intend to apply to participate as private nonprofit organizations shall contain a warning in bold lettering explaining, at a minimum—

"(A) the criminal provisions and penalties established by subsection (o); and

"(B) the procedures for termination of participation in the program as established by regulations.

"(3) The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs.

"(4) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraphs (1) and (3) of this subsection not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

"(5) For the purposes of this subsection, the term 'private nonprofit organization' has the meaning given such term in subsection (a)(7)(B).''; and

(6) in subsection (r) (as redesignated by paragraph (4) of this subsection), by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

Regulations. Effective dates. 42 USC 1761 note.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than February 1, 1990, the Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (3), (4), and (5) of subsection (a). Notwithstanding the provisions of section 553 of title 5, United States Code, the Secretary of Agriculture may issue such regulations without providing notice or an opportunity for public comment.

(2) NATIONAL YOUTH SPORTS PROGRAM.—(A) Subparagraphs (A), (B), (C), and (D)(i) of section 13(c)(2) of the National School Lunch Act (as added by subsection (a)(2)(B) of this section) shall be effective as of October 1, 1989.

(B) Not later than February 1, 1990, the Secretary of Agriculture shall—

(i) issue final regulations to implement subparagraph (D)(ii) of section 13(c)(2) of the National School Lunch Act (as added by subsection (a)(2)(B) of this section); and

(ii) issue final regulations under subparagraph (E) of such section.

(3) EXTENSION OF AUTHORIZATION.—The amendments made by subsection (a)(6) shall be effective as of October 1, 1989.

SEC. 103. EXTENSION OF COMMODITY DISTRIBUTION PROGRAM.

(a) GENERAL AUTHORITY.—Subsection (a) of section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by striking "1989" and inserting "1994".

(b) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 14(g) of the National School Lunch Act (42 U.S.C. 1762a(g)), as similarly added first by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-368), later by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-371), and later by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 2 of Public Law 100-356, is amended to read as if only the amendment made by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER PUBLIC LAW 100-356.—(A) Paragraph (3) of section 14(g) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1762a(g)) is amended—

(i) by adding at the end of subparagraph (A) the following new sentences: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988."; and

(ii) in subparagraph (B), by striking "$50,000" and inserting "such sums as may be necessary".

Effective date. 42 USC 1762a note.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(c) COMPUTATION OF CASH COMPENSATION TO DISTRICTS.—Section 14(g)(3)(A) of the National School Lunch Act (as amended by subsection (b) of this section) (42 U.S.C. 1762a(g)(3)(A)) is amended by striking the second sentence and all that follows and inserting the following: "The Secretary, in computing losses sustained by any

school district under the preceding sentence, shall base such computation on the difference between the value of bonus commodity assistance received by such school district under this Act for the school year ending June 30, 1983, and the value of bonus commodities received by such school district under this Act for the school year ending June 30, 1982. For the purposes of this subparagraph—

"(i) the term 'bonus commodities' means commodities provided in addition to commodities provided pursuant to section 6(e); and

"(ii) the term 'bonus commodity assistance' means assistance, in the form of bonus commodities, cash, or commodity letters of credit, provided in addition to assistance provided pursuant to section 6(e).

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than 1 year after the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989. The Secretary shall, during the 45-day period beginning on October 1, 1990, complete action on any claim submitted under this subparagraph.".

SEC. 104. REPEAL OF NATIONAL ADVISORY COUNCIL.

Section 15 of the National School Lunch Act (42 U.S.C. 1763) is repealed.

SEC. 105. CHILD CARE FOOD PROGRAM.

Disadvantaged persons.

(a) AMENDMENT TO HEADING.—The heading for section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended to read as follows:

"CHILD AND ADULT CARE FOOD PROGRAM".

(b) OTHER AMENDMENTS TO SECTION 17.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subparagraph (C) of subsection (f)(3)—

(A) in the first sentence, by inserting before the period the following: "and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas";

(B) in the second sentence, by inserting "and expansion funds" after "start-up funds";

(C) in the third sentence, by inserting "and expansion funds" after "Start-up funds";

(D) in the fourth sentence, by inserting "and expansion funds" after "start-up funds";

(E) in the fifth sentence, by inserting "and expansion funds" after "start-up funds"; and

(F) by inserting after the first sentence the following new sentence: "Institutions that have received start-up funds may also apply at a later date for expansion funds.";

(2) in subsection (l)—

(A) by inserting "(1)" after "(l)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program established under this section regarding family or group day care homes that operate in low-income areas or that primarily serve low-income children. As part of such demonstration

projects, the Secretary may provide grants to, or otherwise modify administrative reimbursement rates for, family or group day care home sponsoring organizations.

State and local governments. Day Care.

"(3) The Secretary and the States shall provide training and technical assistance to assist family and group day care home sponsoring organizations in reaching low-income children.";

(3) in subsection (p)—

(A) by adding at the end of paragraph (1) the following: "Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants."; and

(B) by adding at the end the following new paragraph:

"(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section."; and

State and local governments. Day Care.

(4) by adding at the end the following new subsection:

"(q)(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out 2 statewide demonstration projects under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

"(A) at least 25 percent of the children served by such organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

"(B) as a result of the participation of the organization in the project—

"(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

"(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

"(2) Under each such project, the Secretary shall examine—

"(A) the budgetary impact of the change in eligibility being tested;

"(B) the extent to which, as a result of such change, additional low-income children can be reached; and

"(C) which outreach methods are most effective.

"(3) The Secretary shall choose to conduct demonstration projects under this subsection—

"(A) 1 State that—

"(i) has a history of participation of for-profit organizations in the child care food program;

"(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a manner that allows low-income parents to choose the type of child care their children will receive;

"(iii) has other funding mechanisms that support parental choice for child care;

"(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

"(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program; and

"(B) 1 State in which—

"(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

"(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

"(iii) at least ⅓ of the licensed child care centers and preschools operate as for-profit facilities;

"(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

"(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act.

"(4) Such project shall—

"(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

"(B) terminate on September 30, 1992.".

(c) FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 503(e) of the Hunger Prevention Act of 1988 (42 U.S.C. 1766 note) is amended by striking "not later than 12 months after the date on which the project was fully initiated" and inserting "September 30, 1990".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as of October 1, 1989. The Secretary of Agriculture shall reimburse day care institutions and family or group day care sponsoring organizations participating in the demonstration project authorized under section 503(a) of the Hunger Prevention Act of 1988 (42 U.S.C. 1766 note) as if this Act was enacted before such date. 42 USC 1766 note.

(d) IMPLEMENTATION.— 42 USC 1766 note.

(1) EXPANSION; DEMONSTRATION PROJECT.—The Secretary of Agriculture shall implement the amendments made by subsections (b)(1) and (b)(2) not later than July 1, 1990.

(2) DIETARY REQUIREMENTS FOR ADULT DAY CARE FOOD PROGRAM.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b)(3). Regulations.

SEC. 106. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

(a) GENERAL AUTHORITY.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting after section 17 the following new section:

"SEC. 17A. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE. 42 USC 1766a.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS TO STATES.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements to children in afterschool care in eligible elementary and secondary schools.

"(2) ELIGIBLE SCHOOLS.—For the purposes of this section, the term 'eligible elementary and secondary schools' means schools that—

"(A) operate school lunch programs under this Act;

"(B) sponsor afterschool care programs; and

"(C) are participating in the child care food program under section 17 on May 15, 1989.

"(b) ELIGIBLE CHILDREN.—Reimbursement may be provided under this section only for supplements served to children—

"(1) who are not more than 12 years of age; or

"(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.

"(c) REIMBURSEMENT.—For the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 17(c)(3) (as adjusted pursuant to section 11(a)(3)).

"(d) CONTENTS OF SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.".

Regulations.
42 USC 1766a note.

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the National School Lunch Act (as added by subsection (a) of this section).

SEC. 107. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended—

(1) in paragraph (1) of subsection (e)—

(A) by striking "for the duration beginning July 1, 1987, and ending December 31, 1990" and inserting "beginning July 1, 1987, and ending September 30, 1992"; and

Contracts.

(B) by adding at the end the following new sentence: "The Secretary, directly or through contract, shall administer the project under this subsection."; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall conduct demonstration projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

Contracts.

"(2)(A) The Secretary shall enter into agreements with private nonprofit organizations to participate in the projects under this subsection.

"(B) The Secretary shall establish eligibility requirements for private nonprofit organizations that desire to participate in the projects under this subsection. Such requirements shall include the following:

Homeless persons.

"(i) Each such organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

Safety.

"(ii) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

"(3)(A) Projects under this subsection shall use the same meal patterns and shall receive reimbursement payments for meals and supplements at the same rates provided to child care centers partici-

pating in the child care food program under section 17 for free meals and supplements.

"(B) Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application. Homeless persons.

"(4) For purposes of this subsection, the term 'emergency shelter' has the meaning given such term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act.

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection from amounts appropriated for purposes of carrying out this Act not less than $50,000 in the fiscal year 1990 and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994, in addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966. Any amounts expended under the preceding sentence shall be used solely to provide grants on an annual basis to private nonprofit organizations for the conduct of projects under this subsection. Grants.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

"(6) At least 1 project under this subsection shall commence operations not later than September 30, 1990, and all such projects shall cease to operate not later than September 30, 1994.".

SEC. 108. REDUCTION OF PAPERWORK.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is amended to read as follows:

"SEC. 19. REDUCTION OF PAPERWORK.

"(a) IN GENERAL.—In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall, to the maximum extent possible, reduce the paperwork required of State and local educational agencies, schools, and other agencies participating in nutrition programs assisted under such Acts in connection with such participation. State and local governments.

"(b) CONSULTATION; PUBLIC COMMENT.—In carrying out the requirements of subsection (a), the Secretary shall—

"(1) consult with State and local administrators of programs assisted under this Act or the Child Nutrition Act of 1966;

"(2) convene at least 1 meeting of the administrators described in paragraph (1) not later than the expiration of the 10-month period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989; and

"(3) obtain suggestions from members of the public with respect to reduction of paperwork.

"(c) REPORT.—Before the expiration of the 1-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall report to the Congress concerning the extent to which a reduction has occurred in the amount of paperwork described in subsection (a). Such report shall be developed in consultation with the administrators described in subsection (b)(1).".

SEC. 109. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

42 USC 1769b-1.

"SEC. 21. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

"(a) GENERAL AUTHORITY.—The Secretary—

"(1) from amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

"(A) food service programs carried out with assistance under this Act;

"(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

"(C) as appropriate, other federally assisted feeding programs; and

"(2) from amounts appropriated pursuant to subsection (e)(2), is authorized to establish and maintain a food service management institute.

"(b) MINIMUM REQUIREMENTS.—The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

"(1) menu planning;

"(2) implementation of regulations and appropriate guidelines; and

"(3) compliance with program requirements and accountability for program operations.

"(c) DUTIES OF FOOD SERVICE MANAGEMENT INSTITUTE.—

"(1) IN GENERAL.—Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

"(A) food service programs assisted under this Act;

"(B) school breakfast programs assisted under section 4 of the Child Nutrition Act of 1966; and

"(C) as appropriate, other federally assisted feeding programs.

"(2) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

"(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

"(B) providing training and technical assistance with respect to—

"(i) efficient use of physical resources;

"(ii) financial management;

"(iii) efficient use of computers;

"(iv) procurement;

"(v) sanitation;

"(vi) safety;

"(vii) food handling;

"(viii) meal planning and related nutrition activities; and

"(ix) other appropriate activities;

"(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

"(D) developing training materials for use in the programs and workshops described in subparagraph (C); and

"(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out with assistance provided under section 19 of the Child Nutrition Act of 1966.

"(d) COORDINATION.—The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) $3,000,000 for the fiscal year 1990, $2,000,000 for the fiscal year 1991, and $1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1); and

"(2) $1,000,000 for the fiscal year 1990 and $4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2).".

SEC. 110. COMPLIANCE AND ACCOUNTABILITY. 42 USC 1769c.

(a) GENERAL AUTHORITY.—The National School Lunch Act (as amended by section 109 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

"(a) UNIFIED ACCOUNTABILITY SYSTEM.—There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this Act comply with the provisions of this Act. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5, United States Code. Regulations.

"(b) FUNCTIONS OF SYSTEM.— State and local governments.

"(1) IN GENERAL.—Under the system described in subsection (a), each State educational agency shall—

"(A) require that local food service authorities comply with the provisions of this Act; and

"(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

"(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

"(c) ROLE OF SECRETARY.—In carrying out this section, the Secretary shall—

"(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

"(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) $3,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22 Regulations. 42 USC 1769c note.

of the National School Lunch Act (as added by subsection (a) of this section).

SEC. 111. INFORMATION ON INCOME ELIGIBILITY.

The National School Lunch Act (as amended by sections 109 and 110 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

42 USC 1769d.

"SEC. 23. INFORMATION ON INCOME ELIGIBILITY.

State and local governments.

"(a) INFORMATION TO BE PROVIDED.—In the case of each program established under this Act and the Child Nutrition Act of 1966, the Secretary shall provide to each appropriate State agency—

"(1) information concerning what types of income are counted in determining the eligibility of children to receive free or reduced price meals under the program in which such State, State agency, local agency, or other entity is participating, particularly with respect to how net self-employment income is determined for family day care providers participating in the child care food program (including the treatment of reimbursements provided under this section); and

"(2) information concerning the consideration of applications for free or reduced price meals from households in which the head of the household is less than 21 years old.

"(b) TIME FOR PROVISION OF INFORMATION.—The Secretary shall provide the information required by subsection (a) before the expiration of the 60-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989 and shall as necessary provide revisions of such information.

"(c) FORM SIMPLIFICATION.—Not later than July 1, 1990, the Secretary shall—

"(1) review the model application forms for programs under this Act and programs under the Child Nutrition Act of 1966; and

"(2) simplify the format and instructions for such forms so that the forms are easily understandable by the individuals who must complete them.".

SEC. 112. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

The National School Lunch Act (as amended by sections 109, 110, and 111 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

42 USC 1769e.

"SEC. 24. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

"(a) NUTRITION GUIDANCE PUBLICATION.—

"(1) DEVELOPMENT.—The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly develop and approve a publication to be entitled 'Nutrition Guidance for Child Nutrition Programs' (hereafter in this section referred to as the 'publication'). The Secretary shall develop the publication as required by the preceding sentence before the expiration of the 2-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989.

"(2) TIME FOR DISTRIBUTION.—Before the expiration of the 6-month period beginning on the date that the development of the publication is completed, the Secretary shall distribute the publication to school food service authorities and institutions and organizations participating in covered programs.

"(b) REVISION OF MENU PLANNING GUIDES.—The Secretary shall, as necessary, revise the menu planning guides for each covered program to include recommendations for the implementation of nutrition guidance described in the publication.

"(c) APPLICATION OF NUTRITION GUIDANCE TO MEAL PROGRAMS.—In carrying out any covered program, school food authorities and other organizations and institutions participating in such program shall apply the nutrition guidance described in the publication when preparing meals and meal supplements served under such program.

"(d) IMPLEMENTATION.—In carrying out covered programs, the Secretary shall ensure that meals and meal supplements served under such programs are consistent with the nutrition guidance described in the publication.

"(e) REVISION OF PUBLICATION.—The Secretary and the Secretary of Health and Human Services may jointly update and approve the publication as warranted by scientific evidence.

"(f) COVERED PROGRAMS.—For the purposes of this section, the term 'covered program' includes—

"(1) the school lunch program under this Act;

"(2) the summer food service program for children under section 13;

"(3) the child care food program under section 17; and

"(4) the school breakfast program under section 4 of the Child Nutrition Act of 1966.".

PART B—PROGRAMS UNDER THE CHILD NUTRITION ACT OF 1966

SEC. 121. EXPANSION OF SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1733) is amended— 42 USC 1773.

(1) in the first sentence of subsection (a), by inserting before the period the following: "and to carry out the provisions of subsection (g)";

(2) in subsection (f)—

(A) by inserting before the subsection the following new heading:

"EXPANSION OF PROGRAM";

(B) by inserting "(1)" after "(f)";

(C) by striking the last sentence; and

(D) by adding at the end the following new paragraph:

"(2)(A) Each State educational agency shall— State and local governments.

"(i) provide information to school boards and public officials concerning the benefits and availability of the school breakfast program; and

"(ii) select each year, for additional informational efforts concerning the program, schools in the State—

"(I) in which a substantial portion of school enrollment consists of children from low-income families; and Disadvantaged persons.

"(II) that do not participate in the school breakfast program.

"(B) Not later than October 1, 1993, the Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of Reports.

the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program."; and

(3) by adding at the end the following new subsection:

"STARTUP COSTS

State and local governments.

"(g)(1) The Secretary shall make payments, totalling not less than $3,000,000 in the fiscal year 1990 and $5,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, on a competitive basis to State educational agencies in a substantial number of States for distribution to eligible schools to assist such schools with nonrecurring expenses incurred in initiating a school breakfast program under this section. Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b).

"(2)(A) In making payments under this subsection in any fiscal year, the Secretary shall provide a preference to State educational agencies that—

"(i) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of—

"(I) the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs;

"(II) a State law that requires the expansion of such programs during such year; or

"(III) significant public or private resources that have been assembled to carry out the expansion of such programs during such year; or

"(ii) either—

"(I) do not have a breakfast program available to a large number of low-income children in the State; or

"(II) serve a low percentage of free and reduced price breakfasts under the school breakfast program when the number of such breakfasts is measured as a percentage of the number of free and reduced price lunches served in such State under the school lunch program carried out under the National School Lunch Act.

"(B) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by such agency within a reasonable period.

"(C) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(3) Each State agency, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools that demonstrate the greatest need for a breakfast program.

"(4) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of payments received under this subsection.

"(5) As used in this subsection, the term 'eligible school' means a school—

"(A) attended by children a significant percentage of whom are members of low-income families; and

"(B) that agrees to operate the breakfast program established with such assistance for a period of not less than 3 years.

Reports.

"(6) Not later than December 31, 1993, the Secretary shall submit a report to the Committee on Education and Labor of the House of

Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program.".

SEC. 122. STATE ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting after the first sentence the following new sentence: "If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5).";

(B) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(C) by inserting after paragraph (4) the following new paragraph:

"(5)(A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

"(B)(i) In the fiscal year 1991 and each succeeding fiscal year, any amounts appropriated that are not obligated or expended during such fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary. From any amounts returned to the Secretary under the preceding sentence, the Secretary shall—

"(I) first allocate, for the purpose of providing grants on an annual basis to private nonprofit organizations participating in projects under section 18(f) of the National School Lunch Act, not less than $3,000,000 in the fiscal year 1992 and not less than $4,000,000 in each of the fiscal years 1993 and 1994; and

"(II) then allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for such amounts.

"(ii) In any fiscal year in which amounts returned to the Secretary under the first sentence of clause (i) are insufficient to provide the complete allocation described in clause (i)(I), all of such amounts shall be allocated for the purpose described in clause (i)(I)."; and

(D) by adding at the end the following new paragraph:

"(8) In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and under the National School Lunch Act is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and under the National School Lunch Act.";

(2) in subsection (g), by inserting before the period at the end the following: ", and that agree to participate fully in any studies authorized by the Secretary"; and

(3) in subsection (h), by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

Effective date. 42 USC 1776 note.

(b) IMPLEMENTATION.—The amendment made by subsection (a)(1)(A) shall be effective as of October 1, 1989.

State and local governments.

SEC. 123. ADDITIONAL ACTIVITIES AND REQUIREMENTS WITH RESPECT TO SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(17) 'Competitive bidding' means a procurement process under which the State agency selects the single source offering the lowest price, as determined by the submission of sealed bids, for the product for which bids are sought.";

(2) in subsection (d), by amending paragraph (2) to read as follows:

"(2)(A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

"(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of the National School Lunch Act for free and reduced price meals;

"(ii)(I) receives food stamps under the Food Stamp Act of 1977; or

"(II) is a member of a family that receives assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act; or

"(iii)(I) receives medical assistance under title XIX of the Social Security Act; or

"(II) is a member of a family in which a pregnant woman or an infant receives such assistance.

"(B) For the purpose of determining income eligibility under this section, any State agency may choose to exclude from income any basic allowance for quarters received by military service personnel residing off military installations.";

(3) in subsection (e)—

(A) by striking the last 3 sentences of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph:

Education.

"(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education and breastfeeding promotion and support shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the

nutrition education and breastfeeding promotion and support they have received."; and

(D) by adding at the end the following new paragraphs:

"(3) The State agency shall—

"(A) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program; Food stamps.

"(B) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the 'medicaid program'); and

"(C) provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program. Medicaid.

"(4) The State agency shall ensure that each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment."; Public information. Records. Drugs and drug abuse.

(4) in subsection (f)—

(A) in subparagraph (C) of paragraph (1)—

(i) in clause (iii)—

(I) by inserting "local programs for breastfeeding promotion," after "immunization programs,"; and

(II) by inserting "and treatment" after "alcohol and drug abuse counseling";

(ii) by amending clause (vii) to read as follows:

"(vii) a plan to provide program benefits under this section to eligible individuals most in need of the benefits and to provide eligible individuals not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;";

(iii) by redesignating clauses (viii) and (ix) as clauses (xii) and (xiii), respectively; and

(iv) by inserting after clause (vii) the following new clauses:

"(viii) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

"(ix) if the State agency chooses to provide program benefits under this section to some or all eligible individuals who are incarcerated in prisons or juvenile detention facilities that do not receive Federal assistance under any program specifically established to assist pregnant women regarding their nutrition and health needs, a plan for the provision of such benefits to,

and to meet the special nutrition education needs of, such individuals, which may include—

"(I) providing supplemental foods to such individuals that are different from those provided to other participants in the program under this section;

"(II) providing such foods to such individuals in a different manner than to other participants in the program under this section in order to meet the special needs of such individuals; and

"(III) the development of nutrition education materials appropriate for the special needs of such individuals;

Rural areas.

"(x) a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers;

Education.

"(xi) a plan to provide nutrition education and promote breastfeeding;";

(B) by adding at the end of paragraph (8) the following new subparagraph:

Health care facilities.

"(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

"(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

"(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.";

(C) in paragraph (9)—

(i) by inserting "(A)" after "(9)"; and

(ii) by adding at the end the following new subparagraph:

"(B) Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant. Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage.";

(D) in subparagraph (A) of paragraph (14), by inserting ", breastfeeding promotion," after "nutrition education";

(E) in paragraph (17), by inserting before the period the following: "and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities"; and

(F) by adding at the end the following new paragraphs:

"(18)(A) Except as provided in subparagraph (B), a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medicaid program.

"(B) Income eligibility guidelines under this section shall be implemented not later than July 1 of each year.

"(19) Each local agency participating in the program under this section shall provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

"(20) The State agency shall adopt policies that—

"(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

"(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.";

(5) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994. As authorized by section 3 of the National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.";

Appropriation authorization.

(B) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this subparagraph, the Secretary—

"(i) in the case of legislation providing funds through the end of a fiscal year, shall issue—

"(I) an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 15-day period beginning on the date of the enactment of such legislation; and

"(II) subsequent allocations of funds provided by the enactment of such legislation not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

"(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

"(B) In any fiscal year—

"(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and

"(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

"(3) Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

"(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the legislation described in such paragraph;

"(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the legislation described in such paragraph; and

"(C) in the case of the enactment of legislation providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such legislation except amounts reserved by the Secretary for purposes of carrying out paragraph (5).";

(D) in paragraph (5) (as redesignated by subparagraph (B) of this paragraph), by striking "$3,000,000" and inserting "$5,000,000"; and

(E) by adding at the end the following new paragraph:

"(6) Upon the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program under this section.";

Grants.

(6) by amending subsection (h) to read as follows:

"(h)(1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs incurred by State and local agencies for nutrition services and administration for such year.

"(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued for the fiscal year 1987, as adjusted.

"(ii) Such adjustment, for any fiscal year, shall be made by revising the national average per participant grant for nutrition services and administration for the fiscal year 1987 to reflect the percentage change between—

"(I) the value of the index for State and local government purchases, using the implicit price deflator, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 1986; and

"(II) the best estimate that is available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

"(C) In any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food

benefits under this section, except to the extent that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

"(2)(A) For each of the fiscal years 1990, 1991, 1992, 1993 and 1994, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula shall—

"(i) be designed to take into account—

"(I) the varying needs of each State;

"(II) the number of individuals participating in each State; and

"(III) other factors which serve to promote the proper, efficient, and effective administration of the program under this section;

"(ii) provide for each State agency—

"(I) an estimate of the number of participants for the fiscal year involved; and

"(II) a per participant grant for nutrition services and administration for such year; and

"(iii) provide for a minimum grant amount for State agencies.

"(B)(i) Except as provided in clause (ii) and subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

"(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 15 percent higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

"(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

"(3)(A) Except as provided in subparagraphs (B) and (C), in each fiscal year, each State agency shall expend—

"(i) for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of—

"(I) ⅙ of the amounts expended by the State for costs of nutrition services and administration; and

"(II) an amount equal to a proportionate share of $8,000,000, with each State's share determined on the basis of the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States; and

"(ii) for breastfeeding promotion and support activities an amount that is not less than the amount determined for such State under clause (i)(II).

"(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A)(ii) for purposes of breastfeeding promotion and support activities if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct nutrition education activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A)(ii) were expended for such activities.

"(C) The Secretary may authorize a State agency to expend for purposes of nutrition education an amount that is less than the difference between the aggregate amount described in subparagraph (A) and the amount expended by the State for breastfeeding promotion and support programs if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct such activities.

"(D) The Secretary shall limit to a minimal level any documentation required under this paragraph.

"(4) The Secretary shall—

"(A) in consultation with the Secretary of Health and Human Services, develop a definition of breastfeeding for the purposes of the program under this section;

"(B) authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration;

"(C) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration; and

"(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding.

"(5)(A) Subject to subparagraph (B), in any fiscal year that a State agency achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may convert amounts allocated for food benefits for such fiscal year for costs of nutrition services and administration to the extent that such conversion is necessary—

"(i) to cover allowable expenditures in such fiscal year; and

"(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

"(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

"(C) For the purposes of this paragraph, the term 'acceptable measures' includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion activities.

"(6) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration. The amount to be provided to each local agency under the preceding sentence shall be determined under allocation standards developed by the State agency in cooperation with the several local agencies, taking into

account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as—

"(A) local agency staffing needs;

"(B) density of population;

"(C) number of individuals served; and

"(D) availability of administrative support from other sources.

"(7) The State agency may provide in advance to any local agency any amounts for nutrition services and administration deemed necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of—

"(A) a new local agency;

"(B) a new cost containment measure; or

"(C) a significant change in an existing cost containment measure.

"(8)(A) No State may receive its allocation under this subsection unless on or before August 30, 1989 (or a subsequent date established by the Secretary for any State) such State has—

"(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula, and, where practicable, other foods necessary to carry out the program under this section; and

"(ii) initiated action to implement such measures unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program.

"(B)(i) Except as provided in subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A), any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

"(I) a competitive bidding system; or

"(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

"(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

"(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

"(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

"(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

"(C) In the case of any State that has a contract in effect on the date of the enactment of the Child Nutrition and WIC Reauthoriza- Contracts.

tion Act of 1989, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract, as such term is specified by the contract as in effect on such date, expires. In the case of any State that has more than 1 such contract in effect on the date of the enactment of such Act, subparagraph (B) shall not apply until the term of the contract with the latest expiration date, as such term is specified by such contract as in effect on the date of the enactment of such Act, expires.

"(D)(i) The Secretary shall waive the requirement of subparagraph (B) in the case of any State that demonstrates to the Secretary that—

"(I) compliance with subparagraph (B) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

"(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

"(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

"(iii) The Secretary shall provide information at 6-month intervals to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

Indians.

"(E)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

"(ii) The Secretary shall also provide technical assistance, on request, to State agencies that do not have large caseloads and that desire to consider a cost containment system that covers more than 1 State agency.

"(iii) The Secretary may waive the requirement of subparagraph (B) in the case of any Indian State agency that has not more than 1,000 participants.

"(F) No State may enter into a cost containment contract (in this subparagraph referred to as the "original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

Regulations.

"(G) Not later than the expiration of the 120-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall prescribe regulations to carry out this paragraph. Such regulations shall address issues involved in comparing savings from different cost containment measures, as provided under subparagraph (B).

"(9) For purposes of this subsection, the term 'cost containment measure' means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration.";

(7) in subsection (i)—

(A) in paragraph (1), by striking "funds provided in accordance with this section" and inserting "amounts made available for food benefits under subsection (h)(1)(C)";

(B) in subparagraph (D) of paragraph (3)—

(i) by striking "approved cost-savings strategies as identified in subsection (h)(5)(A)" and inserting "cost containment measures as defined in subsection (h)(9)"; and

(ii) by striking "at the discretion of the Secretary, up to 5 percent" and inserting "not more than 3 percent"; and

(C) by adding at the end the following new paragraph:

"(7) In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures as defined in subsection (h)(9) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.";

(8) in subsection (j), by striking "each year" and inserting "every other year";

(9) in subsection (k)(1)—

(A) in the first sentence, by striking "twenty-three" and inserting "24"; and

(B) in the second sentence, by inserting after "the Secretary;" the following: "1 member shall be an expert in the promotion of breast feeding;"; and

(10) by adding at the end the following new subsections:

Education. Health care professionals.

"(o)(1) Subject to the availability of funds appropriated for the purpose of carrying out this subsection, the Secretary is authorized to establish a demonstration program for the establishment of clinics for participants in the program under this section at community colleges that offer nursing education programs. In determining the location of clinics under this subsection, the Secretary shall consider—

"(A) the location of the community college under consideration;

"(B) its accessibility to individuals eligible to participate in the special supplemental food program under this section; and

"(C) its willingness to operate the clinic during nontraditional hours.

"(2) The Secretary shall, from funds appropriated for the purpose of carrying out this subsection—

"(A) evaluate any demonstration program carried out under paragraph (1); and

"(B) submit to the Congress a report containing the results of such evaluation. Reports.

"(3) There is authorized to be appropriated for purposes of carrying out this subsection $1,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992. Appropriation authorization.

"(p)(1) The Secretary is authorized to make grants to State agencies for the purpose of improving and updating information and data systems used for purposes of carrying out programs under this section. Grants.

"(2) Any State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, and containing or accompanied by such information, as the Secretary

may reasonably require. Grants shall be awarded based on the need demonstrated by States in their applications.

Appropriation authorization.

"(3) There is authorized to be appropriated for purposes of carrying out this subsection $2,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994.".

42 USC 1786 note.

(b) REVIEW OF PRIORITY SYSTEM.—

(1) IN GENERAL.—During the fiscal years 1990 and 1991, the Secretary of Agriculture shall conduct a review of the relationship between the nutritional risk criteria established under section 17 of the Child Nutrition Act of 1966 and the priority system used under the special supplemental food program for women, infants, and children carried out under such section (hereafter in this section referred to as the "program"), especially as it affects pregnant women. In conducting such review, the Secretary of Agriculture shall—

(A) consult with the directors of State and local agencies that operate the program and with other individuals with expertise in the field of nutrition;

(B) take into consideration the preventive nature of the program; and

(C) examine the risks to individuals eligible for participation in the program, particularly pregnant women, from conditions such as homelessness, mental illness, and conditions that pose barriers to receipt of prenatal care, that may be associated with an increased probability of adverse pregnancy outcome or other adverse effects on health.

(2) REPORTS TO CONGRESS.—The Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the review conducted as required by paragraph (1). Under the preceding sentence, the Secretary of Agriculture shall submit to such committees—

(A) a preliminary report not later than October 1, 1990; and

(B) a final report not later than July 1, 1991.

42 USC 1786 note.

(c) REPORT ON WIC FOOD PACKAGE.—

(1) IN GENERAL.—The Secretary of Agriculture shall review the appropriateness of foods eligible for purchase under the special supplemental food program for women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966.

(2) FACTORS.—In conducting such review, the Secretary of Agriculture shall take into consideration such factors as—

(A) how effectively protein, calcium, and iron are provided to participants;

(B) nutrient density of foods; and

(C) the extent to which nutrients, for which program participants are most vulnerable to deficiencies, such as iron, thiamine, riboflavin, vitamin A, and zinc, are effectively provided to participants.

(3) REPORTS.—The Secretary of Agriculture shall provide to the Congress—

(A) a preliminary report on such review no later than June 30, 1991; and

(B) a final report on such review no later than June 30, 1992.

(d) REPORT ON COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.— 42 USC 1786 note.

(1) IN GENERAL.—The Secretary of Agriculture shall review the effect on costs for nutrition services and administration incurred by State and local agencies of this section, section 213, and the amendments made by such sections (including the effect of both increases and decreases in requirements imposed on such agencies).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of the Congress a report on the results of the review conducted under this subsection.

(e) PAPERWORK REDUCTION.—In implementing and monitoring compliance with the provisions of the amendments made by this section (other than the amendment made by subsection (a)(2) to section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)), the Secretary of Agriculture shall not impose any new requirement on a State or local agency that would require the State or local agency to place additional paperwork or documentation in a case file maintained by a local agency. 42 USC 1786 note.

(f) IMPLEMENTATION.— 42 USC 1786 note. Regulations.

(1) BREASTFEEDING PROMOTION; NUTRITION EDUCATION; OUTREACH.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsections (a)(2), (a)(3), and (a)(4).

(2) EXTENSION OF AUTHORIZATION; ALLOCATIONS.—The amendments made by subsections (a)(5), (a)(6), and (a)(7) shall be effective as of October 1, 1989. Effective date.

SEC. 124. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (B) to read as follows: "(B) training school food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the National School Lunch Act, and"; and

(ii) in subparagraph (C), by striking "schools and child care institutions" and inserting "schools, child care institutions, and institutions offering summer food service programs under section 13 of the National School Lunch Act";

(B) in paragraph (2), by striking "the National Advisory Council on Child Nutrition;"; and

(C) in the first sentence of paragraph (4), by inserting before the period the following: ", in coordination with the activities authorized under section 21 of the National School Lunch Act";

(2) in subparagraph (C) of subsection (h)(3), by striking "the National Advisory Council on Child Nutrition,";

(3) by amending paragraph (2) of subsection (i) to read as follows:

Appropriation authorization.

"(2)(A) There is authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs—

"(i) $10,000,000 for the fiscal year 1990;

"(ii) $15,000,000 for the fiscal year 1991;

"(iii) $20,000,000 for the fiscal year 1992; and

"(iv) $25,000,000 for each of the fiscal years 1993 and 1994.

Grants.

"(B)(i)(I) Subject to clause (ii), grants to each State from the amounts appropriated under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within such State.

"(II) If the amount appropriated for any fiscal year is insufficient to pay the amount to which each State is entitled under subclause (I), the amount of each grant shall be ratably reduced. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

"(ii) No State shall receive an amount that is less than—

"(I) $50,000, in any fiscal year in which the amount appropriated for purposes of this section is less than $10,000,000;

"(II) $62,500, in any fiscal year in which the amount appropriated for purposes of this section is $10,000,000 or more but is less than $15,000,000;

"(III) $68,750, in any fiscal year in which the amount appropriated for purposes of this section is $15,000,000 or more but is less than $20,000,000; and

"(IV) $75,000 in any fiscal year in which the amount appropriated for purposes of this section is $20,000,000 or more."; and

(4) by adding at the end the following new subsection:

"(j)(1) The Secretary shall assess the nutrition information and education program carried out under this section to determine what nutrition education needs are for children participating under the National School Lunch Act in the school lunch program, the summer food service program, and the child care food program.

"(2) The assessment required by paragraph (1) shall be completed not later than October 1, 1990.".

PART C—CROSS-PROGRAM PROVISIONS

SEC. 131. DETERMINATION OF TOTAL COMMODITY ASSISTANCE FOR THE SCHOOL LUNCH AND CHILD CARE FOOD PROGRAMS.

(a) SCHOOL LUNCH PROGRAM.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

"(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average

value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

"(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation. State and local governments.

"(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program."; and

(2) in paragraph (2), by striking "Each State agency" and inserting "To the maximum extent feasible, each State agency".

(b) CHILD CARE FOOD PROGRAM.—Paragraph (1) of section 17(h) of the National School Lunch Act (42 U.S.C. 1766(h)) is amended to read as follows:

"(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

"(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 6(e) for the school year concerned. State and local governments.

"(C) After the end of each school year, the Secretary shall—

"(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

"(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

"(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on July 1, 1989. 42 USC 1755 note.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

PART A—REDUCTION OF PAPERWORK UNDER THE NATIONAL SCHOOL LUNCH ACT

Contracts.

SEC. 201. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL LUNCH PROGRAM.

Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended by inserting after the first sentence the following new sentences: "The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 202. INCOME DOCUMENTATION REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)), as similarly amended first by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4203 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 1 of Public Law 100-356, is amended to read as if only the amendment made by section 4203 of the Child Nutrition Amendments of 1986 was enacted.

(2) FREE LUNCH PROGRAM ELIGIBILITY UNDER PUBLIC LAW 100-356.—(A) Section 9(b)(1)(A) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1758(b)(1)(A)) is amended—

(i) in the second sentence, by striking "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting "The"; and

(ii) by striking the third sentence.

Effective date. 42 USC 1758 note.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(b) INCOME DOCUMENTATION REQUIREMENTS.—Section 9 of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by amending subparagraph (C) of subsection (b)(2) to read as follows:

"(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations,

shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

"(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

"(I) a household that is receiving food stamps under the Food Stamp Act of 1977; or

"(II) a family that is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.

"(iii) School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this Act and the Child Nutrition Act of 1966.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "numbers of all adult" and all that follows and inserting the following: "number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C).";

(B) in paragraph (2)—

(i) by amending subparagraph (A) to read as follows:

"(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;";

(ii) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.".

(c) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b). Regulations. 42 USC 1758 note.

SEC. 203. REPORTS TO STATE EDUCATIONAL AGENCIES.

Paragraph (1) of section 11(e) of the National School Lunch Act (42 U.S.C. 1759a(e)) is amended by striking "Each school" and all that follows through "State educational agency" and inserting the following: "The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the State educational agency".

SEC. 204. 2-YEAR APPLICATIONS UNDER CHILD CARE FOOD PROGRAM.

(a) GENERAL AUTHORITY.—Subsection (d) of section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(d)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall develop a policy that allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 2-year intervals.

"(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).".

Regulations. 42 USC 1766 note.

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary shall issue final regulations to implement the amendments made by subsection (a).

SEC. 205. PILOT PROJECTS FOR ALTERNATIVE COUNTING METHODS.

(a) GENERAL AUTHORITY.—Section 18 of the National School Lunch Act (as amended by section 107(2) of this Act) (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(g)(1)(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

"(i) daily counting by category of meals provided by school lunch programs under this Act; and

"(ii) annual applications for eligibility to receive free meals or reduced price meals.

State and local governments.

"(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this Act relating to counting of meals provided by school lunch programs and applications for eligibility.

"(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

"(2)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have in attendance children at least 80 percent of whom are eligible for free lunches or reduced price lunches shall submit applications for a 3-year period.

"(B) Each school participating in the pilot program under this paragraph shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (C) to the daily total student meal count.

"(C) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

"(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

"(ii) shall be updated not later than September 30 of each year.

"(3)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have universal free school lunch programs shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the

school lunch program operated by such school by applying percentages determined under subparagraph (B) to the daily total student meal count.

"(B) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

"(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

"(ii) shall be updated not later than September 30 of each year.

"(C) For the purposes of this paragraph, a universal free school lunch program is a program under which the school operating the program elects to serve all children in that school free lunches under the school lunch program during any period of 3 successive years and pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period.

"(4) In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

"(5) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 18(g) of the National School Lunch Act (as added by subsection (a) of this section).

Regulations. 42 USC 1769 note.

PART B—REDUCTION OF PAPERWORK UNDER THE CHILD NUTRITION ACT OF 1966

SEC. 211. STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SPECIAL MILK PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)), as similarly amended first by section 329 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365) and later by section 4209 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the later amendment was enacted.

(b) STATE-LOCAL AGREEMENTS.—Subsection (a) of section 3 of the Child Nutrition Act of 1966 (as amended by subsection (a) of this section) (42 U.S.C. 1772) is amended by adding at the end the following new paragraph:

"(10) The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 212. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL BREAKFAST PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISION.—

(1) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)), as similarly amended first by section 330(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-366) and later by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 210 of the Hunger Prevention Act of 1988 (Public Law 100-435) is amended to read as if only the amendment made by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM UNDER HUNGER PREVENTION ACT.—(A) The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by striking "3 cents" and inserting "6 cents".

Effective date. 42 USC 1773 note.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on July 1, 1989.

(b) STATE-LOCAL AGREEMENTS.—Subparagraph (A) of section 4(b)(1) of the Child Nutrition Act of 1966 (as amended by subsection (a) of this section) (42 U.S.C. 1773(b)(1)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II);

(2) by inserting "(i)" after "(A)"; and

(3) by adding at the end the following new clause:

"(ii) The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

State and local governments.

SEC. 213. PAPERWORK REDUCTION REQUIREMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) GENERAL AUTHORITY.—Section 17 of the Child Nutrition Act of 1966 (as amended by section 123 of this Act) (42 U.S.C. 1786) is amended—

(1) by adding at the end of subsection (e) the following new paragraph:

"(5) Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes."; and

(2) in subsection (f)—

(A) in paragraph (7)—

(i) by inserting "(A)" after "(7)"; and

(ii) by adding at the end the following new subparagraph:

"(B) State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for

Mail.

issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction."; and

(B) by adding after paragraph (20) (as added by section 123(a)(3)(F) of this Act) the following new paragraph:

"(21) Each State agency shall conduct monitoring reviews of each local agency at least biennially.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (a). Regulations. 42 USC 1786 note.

SEC. 214. UPDATING OF PLANS FOR NUTRITION EDUCATION AND TRAINING.

Paragraph (3) of section 19(h) of the Child Nutrition Act of 1966 (as amended by section 124 of this Act) (42 U.S.C. 1788(h)) is amended by adding at the end the following new sentence: "Each plan developed as required by this section shall be updated on an annual basis.".

TITLE III—TECHNICAL AMENDMENTS

PART A—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 301. APPORTIONMENTS TO STATES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 4 the following new heading: 42 USC 1753.

"APPORTIONMENTS TO STATES".

SEC. 302. DIRECT FEDERAL EXPENDITURES.

Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended—

(1) in paragraph (1), by striking "his" and inserting "the Secretary's";

(2) in paragraph (2), by striking "him" and inserting "the Secretary"; and

(3) in the matter following paragraph (3)—

(A) by striking "him" and inserting "the Secretary";

(B) by striking "(50 Stat. 323)"; and

(C) by striking "(49 Stat. 774), as amended".

SEC. 303. PAYMENTS TO STATES.

(a) INSERTION OF SECTION HEADING.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 7 the following new heading: 42 USC 1756.

"PAYMENTS TO STATES".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.—Paragraph (2) of section 7(a) of the National School Lunch Act (42 U.S.C. 1756(a)) is amended by striking "the the" and inserting "the".

SEC. 304. STATE DISBURSEMENT TO SCHOOLS.

Subsection (d) of section 8 of the National School Lunch Act (as designated by section 201 of this Act) (42 U.S.C. 1757) is amended—

(1) by striking "persons" and inserting "individuals";

Handicapped persons.

(2) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps"; and

(3) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 305. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 9(e) of the National School Lunch Act (42 U.S.C. 1758(e)), as similarly added first by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4204 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 9 of the National School Lunch Act (as amended by sections 101 and 202 of this Act and subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by striking "family-size" each place it appears and inserting "family size"; and

(2) in subsection (c)—

(A) in the first sentence, by striking "School-lunch" and inserting "School lunch";

(B) in the third sentence, by striking "(49 Stat. 774), as amended"; and

(C) in the fourth sentence, by striking ", as amended," each place it appears.

SEC. 306. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) DEFINITION OF SECRETARY.—Section 12(d)(8) of the National School Lunch Act (42 U.S.C. 1760(d)(8)), as similarly added first by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-369), later by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-372), and later by section 4503(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(2) USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.—Section 12(i) of the National School Lunch Act (42 U.S.C. 1760(i)), as similarly added first by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365), and later by section 4206 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal

Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 12 of the National School Lunch Act (as amended by subsection (a)) (42 U.S.C. 1760) is amended—

(1) in subsection (b), by striking "his" each place it appears and inserting "the Secretary's";

(2) in paragraph (5) of subsection (d), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (g), by striking "his" and inserting "personal"; and

(4) in subsection (i) (as amended by subsection (a)(2))—

(A) by striking "(42 U.S.C. 1771 et seq.)"; and

(B) by striking "(42 U.S.C. 3001 et seq.)".

SEC. 307. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13 of the National School Lunch Act (as amended by section 102 of this Act) (42 U.S.C. 1761) is amended—

(1) in subsection (d), by striking "July 1," and inserting "July 1";

(2) in the third sentence of subsection (f), by striking "prescribed" and inserting "prescribe";

(3) in the first sentence of subsection (g), by striking ": *Provided*" and all that follows through "respectively"; and

(4) in subsection (h)—

(A) by striking "(7 U.S.C. 1431)";

(B) by striking "(7 U.S.C. 612c)"; and

(C) by striking "(7 U.S.C. 1446a-1)".

SEC. 308. REPEAL OF OBSOLETE PROVISION RELATING TO TEMPORARY EMERGENCY ASSISTANCE.

Section 13A of the National School Lunch Act (42 U.S.C. 1762) is repealed.

SEC. 309. ELECTION TO RECEIVE CASH PAYMENTS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 16 the following new heading: 42 USC 1765.

"ELECTION TO RECEIVE CASH PAYMENTS".

SEC. 310. CHILD CARE FOOD PROGRAM.

(a) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the National School Lunch Act (as amended by sections 105, 131, and 204 of this Act) (42 U.S.C. 1766) is amended—

(1) in subsection (a), by striking "handicapped children" each place it appears and inserting "children with handicaps"; Handicapped persons.

(2) in the second sentence of subsection (d)(1) (as redesignated by section 204(1) of this Act), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (f)—

(A) in paragraph (1), by striking "day-care" and inserting "day care"; and

(B) in subparagraph (B) of paragraph (2), by striking the second period; and

(4) by striking subsection (k) (and redesignating the succeeding subsections accordingly).

(b) ELIMINATION OF DUPLICATE PROVISION.—Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)), as similarly amended first by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-367), later by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-370), and later by section 4401 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

SEC. 311. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) (as amended by sections 107 and 205 of this Act) is amended—

(1) by striking subsections (a), (b), and (c), and redesignating the succeeding subsections accordingly; and

(2) in subsection (a) (as redesignated by paragraph (1))—

(A) by striking "(42 U.S.C. 1771 et seq.)"; and

(B) by striking "(42 U.S.C. 1774)".

SEC. 312. GENERAL AMENDMENTS.

The National School Lunch Act (as otherwise amended by this Act) (42 U.S.C. 1751 et seq.) is amended—

(1) by striking "school-lunch" each place it appears and inserting "school lunch";

(2) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(3) by striking "special-assistance" each place it appears and inserting "special assistance".

PART B—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

SEC. 321. SPECIAL MILK PROGRAM AUTHORIZATION.

Section 3(a) of the Child Nutrition Act of 1966 (as amended by section 211 of this Act) (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence of paragraph (1), by striking "he" and inserting "the Secretary";

(2) in paragraph (2), by striking "(42 U.S.C. 1751 et seq.)";

(3) in paragraph (4), by striking "he" and inserting "the Secretary"; and

(4) in paragraph (5), by striking "their" and inserting "its".

SEC. 322. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4 of the Child Nutrition Act of 1966 (as amended by sections 121 and 212 of this Act) (42 U.S.C. 1773) is amended—

(1) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(2) in paragraph (3) of subsection (b), by striking "(42 U.S.C. 1766)".

SEC. 323. REGULATIONS.

42 USC 1779.

The first sentence of section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking "he" and inserting "the Secretary".

SEC. 324. APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE.

(a) INSERTION OF SECTION HEADING.—The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by inserting before section 14 the following heading:

"APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE".

(b) ELIMINATION OF GENDER-SPECIFIC POSSESSIVE PRONOUN.—Section 14 of the Child Nutrition Act of 1966 (42 U.S.C. 1783) is amended—

(1) by striking "is" and inserting "are"; and

(2) by striking "his" and inserting "the Secretary's".

SEC. 325. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (f) as paragraphs (1) through (6), respectively;

(3) in paragraph (3) (as redesignated by paragraph (2) of this section), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986"; and

(4) in paragraph (6) (as redesignated by paragraph (2) of this section)—

(A) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps"; and

Handicapped persons.

(B) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 326. SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) STATE ELIGIBILITY FOR WIC FUNDS.—Section 17(c)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(4)), as similarly amended first by section 342(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4302(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(2) BIENNIAL REPORT.—Section 17(d)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(4)), as similarly amended first by section 343(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4303(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the Child Nutrition Act of 1966 (as amended by sections 123 and 213 of this Act and subsection (a) of this section) (42 U.S.C. 1786) is amended—

(1) in paragraph (3) of subsection (c), by striking "section 1304 of the Food and Agriculture Act of 1977" and inserting "section 4 of the Agriculture and Consumer Protection Act of 1973";

(2) in subsection (d)—

(A) by moving the margin of paragraph (4) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and is aligned with the margin of paragraph (3); and

(B) in paragraph (4), by moving the margins of subparagraphs (A) through (C) 2 ems to the left, so that the left margin of each such subparagraph is indented 4 ems;

(3) in subsection (f)—

(A) in paragraph (8), by striking "persons" each place it appears and inserting "individuals";

(B) in paragraph (10)—

(i) by striking "a person" and inserting "an individual";

(ii) by striking "person's" and inserting "individual's"; and

(iii) by striking "the person" and inserting "the individual"; and

(C) by moving the margin of paragraph (17) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and is aligned with the margin of paragraph (16);

(4) in subsection (m)—

(A) in subparagraph (B) of paragraph (7), by striking "(7 U.S.C. 2011 et seq.)"; and

(B) in subparagraph (A) of paragraph (11), by striking "person" and inserting "individual"; and

(5) in paragraph (1) of subsection (n), by striking "this Act" and inserting "the Anti-Drug Abuse Act of 1988".

SEC. 327. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (as amended by sections 124 and 214 of this Act) (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking the semicolon each place it appears and inserting a comma;

(B) in the first sentence of paragraph (4)—

(i) by striking "(12 Stat." and all that follows through "308)"; and

(ii) by striking "(26 Stat." and all that follows through "328)"; and

(C) in paragraph (5)—

(i) by striking "(12 Stat." and all that follows through "308)"; and

(ii) by striking "(26 Stat." and all that follows through "328)"; and

(2) in paragraph (3) of subsection (h)—

(A) by striking "(12 Stat." and all that follows through "308)"; and

(B) by striking "(26 Stat." and all that follows through "328)".

Approved November 10, 1989.

LEGISLATIVE HISTORY—H.R. 24 (S. 1484):

HOUSE REPORTS: No. 101-194 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Aug. 3, S. 1484 considered and passed Senate; H.R. 24, amended, passed in lieu.
Oct. 10, House concurred in Senate amendment with an amendment.
Oct. 24, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 10, Presidential statement.

Public Law 101-148
101st Congress

An Act

Nov. 10, 1989
[H.R. 3012]

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1990, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, $819,129,000, to remain available until September 30, 1994: *Provided,* That of this amount, not to exceed $79,420,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,139,250,000, to remain available until September 30, 1994: *Provided,* That of this amount, not to exceed $82,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That none of the funds available to the Department of the Navy in this or any other Act may be utilized to initiate agricultural leases of more than one year's duration on land in or around Naval Air Station Fallon, Nevada.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,227,296,000, to remain available until September 30, 1994: *Pro-*

vided, That of this amount, not to exceed $99,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $18,500,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $537,440,000, to remain available until September 30, 1994: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $86,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, $10,000,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-447, $11,800,000 is hereby rescinded: *Provided further,* That, effective February 1, 1990, none of the unobligated funds appropriated in this Act for Defense Medical Facilities Office planning and design may be obligated until the Defense Medical Facilities Office initiates design of the aerospace medicine facility as required by the conference report accompanying Public Law 100-447.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $424,714,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the

Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $223,490,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $238,330,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $97,460,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $56,600,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $46,200,000, to remain available until September 30, 1994.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $78,982,000; for Operation and maintenance, and for debt payment, $1,375,000,000; in all $1,453,982,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1994.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as

follows: for Construction, $174,621,000; for Operation and maintenance, and for debt payment, $623,700,000; in all $798,321,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1994.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $200,071,000; for Operation and maintenance, and for debt payment, $741,808,000; in all $941,879,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1994.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $600,000; for Operation and maintenance, $20,700,000; in all $21,300,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1994.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,100,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $500,000,000, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $2,400,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided,* That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 112. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 113. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exeeds the lowest responsive and

responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 114. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 115. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1990, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 116. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 117. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundred First Congress.

SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1990, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1990 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States. Reports.

SEC. 119. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 120. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

SEC. 121. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the 10 USC 2860 note.

amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 122. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $25,000,000 may be obligated for contract cleaning of family housing units.

SEC. 123. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

Wages.
Government organization and employees.

SEC. 125. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 126. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

Hawaii.

SEC. 127. (a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon:

(1) Approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) Approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(b) CONDITIONS OF SALE.—

(1) MANANA STORAGE AREA.—The State of Hawaii shall have the right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c).

(2) PEARL CITY JUNCTION.—The State of Hawaii shall have the first right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (d). Should the State and the Secretary fail to consummate an agreement, the Secretary shall have authority to sell this property through competitive procedures.

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary.

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—

(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the Secretary shall receive—

(A) at a site or sites to be determined by the Secretary, design and construction to reasonable specifications to the Secretary's satisfaction: (i) an openable causeway from mainside Pearl Harbor Naval Base to Ford Island; and (ii) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate on Oahu, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(B) funds to allow the Secretary to perform the design, construction and relocation specified in subsection (c)(1)(A); or

(C) any combination of the consideration enumerated in subsections (c)(1)(A) and (c)(1)(B) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by the Secretary, the State shall transfer complete title to those facilities to the Secretary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. This may include—

(1) relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS.—

(1) The Secretary may use the funds derived from any sale of land under this section to accomplish any of the purposes described in subsections (c) and (d) including any related expenses.

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds.

(3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Naval Supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages and legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to—

(1) convey title to real property;

(2) provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) provide for relocation of functions from the properties to be sold until—

(A) the Secretary has transmitted to the appropriate Committees of Congress a report of the details of the proposed transaction; and Reports.

(B) a period of twenty-one days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this

section as the Secretary considers appropriate to protect the interests of the United States.

Approved November 10, 1989.

LEGISLATIVE HISTORY—H.R. 3012:

HOUSE REPORTS: No. 101-176 (Comm. on Appropriations) No. 101-307 (Comm. of Conference).
SENATE REPORTS: No. 101-130 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July. 31, considered and passed House.
Sept. 15, considered and passed Senate, amended.
Oct. 26, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 27, Senate agreed to conference report; concurred in House amendments.

Public Law 101-149
101st Congress

Joint Resolution

To designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week".

Nov. 13, 1989
[S.J. Res. 73]

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principle structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 29, 1989, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 73:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Oct. 31, considered and passed House.

Public Law 101-150
101st Congress

Joint Resolution

Nov. 13, 1989
[S.J. Res. 194]

Designating November 12 through 18, 1989 as "National Glaucoma Awareness Week".

Whereas glaucoma is the second leading cause of blindness among individuals in the United States;

Whereas glaucoma is the leading cause of blindness among black individuals in the United States;

Whereas the risk of blindness from glaucoma significantly increases in older age groups;

Whereas diabetes increases the risk of developing glaucoma;

Whereas at least two million individuals in the United States have glaucoma and at least 50 per centum of the individuals with glaucoma are unaware of it;

Whereas eighty thousand individuals in the United States are already blind from glaucoma and five million to ten million Americans are believed to have undiagnosed and elevated intraocular presssure, often a silent symptom of glaucoma;

Whereas early detection is critical to preventing blindness from glaucoma; and

Whereas periodic comprehensive eye examinations are the best means of detecting glaucoma and the number of individuals that receive examinations could be increased through greater public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12 through 18, 1989, is designated as "National Glaucoma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved November 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 194:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Oct. 31, considered and passed House.

Public Law 101-151
101st Congress

Joint Resolution

Designating November 1989 as "An End to Hunger Education Month".

Nov. 14, 1989
[S.J. Res. 198]

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people annually, three-fourths of whom are children under the age of 5;

Whereas while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1989 is designated as "An End to Hunger Education Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved November 14, 1989.

LEGISLATIVE HISTORY—S.J. Res. 198:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, considered and passed Senate.
Oct. 31, considered and passed House.

Public Law 101-152
101st Congress

An Act

Nov. 15, 1989
[H.R. 3318]

To redesignate the Federal building in Houston, Texas, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1919 Smith Street in Houston, Texas, and known as the Concord Tower, shall be known and designated as the "George Thomas 'Mickey' Leland Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "George Thomas 'Mickey' Leland Federal Building".

Approved November 15, 1989.

LEGISLATIVE HISTORY—H.R. 3318:

HOUSE REPORTS: No. 101-319 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 30, considered and passed House.
Nov. 3, considered and passed Senate.

Public Law 101-153
101st Congress

Joint Resolution

Designating November 5-11, 1989, as "National Women Veterans Recognition Week".

Nov. 15, 1989
[H.J. Res. 35]

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;
Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;
Whereas women veterans have contributed greatly to the Nation's security through honorable military service which in many cases involved great hardship and danger;
Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;
Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;
Whereas this lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and
Whereas designating a week to recognize women veterans in November 1989 will help further important gains made by women veterans following National Women Veterans Recognition Week in November 1984, 1985, 1986, 1987, and 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 5-11, 1989, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 15, 1989.

LEGISLATIVE HISTORY—H.J. Res. 35:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 31, considered and passed House.
Nov. 3, considered and passed Senate.

Public Law 101-154
101st Congress

Joint Resolution

Nov. 15, 1989
[H.J. Res. 435]

Making further continuing appropriations for the fiscal year 1990, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 101-100, as amended by Public Law 101-130, is further amended by striking out "November 15, 1989" and inserting in lieu thereof "November 20, 1989".

Ante, p. 640.

Approved November 15, 1989.

LEGISLATIVE HISTORY—H.J. Res. 435:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 15, considered and passed House and Senate.

Public Law 101-155
101st Congress

An Act

To extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington.

Nov. 15, 1989
[S. 750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensees for FERC Projects numbered 2833, 4204, 4586, 4587, 4659, and 4660 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of each of such projects for up to a maximum of three consecutive two-year periods. This section shall take effect with respect to each such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

Effective date.

Approved November 15, 1989.

LEGISLATIVE HISTORY—S. 750 (H.R. 3021):

HOUSE REPORTS: No. 101-318 accompanying H.R. 3021 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-34 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 8, considered and passed Senate.
Oct. 30, H.R. 3021 considered and passed House; proceedings vacated and S. 750, amended, passed in lieu.
Nov. 3, Senate concurred in House amendments.

Public Law 101-156
101st Congress

An Act

Nov. 16, 1989
[S. 1827]

To revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) there is a dire and immediate need for increased space for the criminal justice system and for Federal agencies to operate in the City of New York;

(2) the action of condemnation of certain lands would speed the process of providing additional space for such needs;

(3) condemnation procedures authorized in this Act are required to address a specific dire and immediate need, and should not be precedents for action by the Congress or other Federal agencies;

(4) community input is essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988;

(5) before and during construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, the Administrator of General Services should consult on an ongoing basis with the community board for such building to solicit its input;

(6) environmental reviews are essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988; and

(7) in the construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, all federally mandated environmental reviews, as required by environmental laws, should be conducted and closely monitored.

SEC. 2. CONDEMNATION AND LEASE AUTHORITY.

The Independent Agencies Appropriations Act, 1988 (as contained in title IV of Public Law 100-202; 101 Stat. 1329-401), is amended in section 8 of the matter under the heading GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS—

(1) by inserting "(a)" after "SEC. 8."; and

(2) by adding at the end of such section the following new subsections:

"(b) The lease entered into between the Administrator of General Services and the city of New York (hereinafter in this subsection and subsection (c) referred to as the 'City') pursuant to the fifth sentence of subsection (a) shall provide for an initial lease period of 30 years and shall provide options for the City to renew the lease for up to three successive lease periods of 30 years each.

"(c) The total rent paid by the City to the General Services Administration for each such renewal period shall not exceed the City's pro rata share of the cost of the capital replacement, repair, maintenance, and operation of the building in which such office space used by the City is located and any associated parking facility.

"(d) Notwithstanding any other provision of law, the Administrator of General Services may—

"(1) acquire from the City by condemnation under judicial process the real property necessary for the construction of the buildings referred to in the first sentence of subsection (a) and for the additional parking space referred to in such sentence;

"(2) for the purpose of acquiring such real property, establish the value of the just compensation of such real property by agreement with the City;

"(3) provide for the contractor responsible for financing the construction of such buildings, instead of the United States, to—

"(A) pay the City the just compensation payable by the United States for the acquisition of the real property; or

"(B) if all parties otherwise agree, compensate the City in an alternative negotiated agreement.

"(4) take title to the property for the United States after payment of such amount to the City by the contractor;

"(5) reimburse the contractor for the payment of that amount, and pay the contractor reasonable interest on that amount, over a period not to exceed 30 years and make such reimbursement and interest payments out of funds available in the Federal Building Fund for the rental of space; and

"(6) in the case of any real property referred to in clause (1) that is acquired by condemnation, establish rental rates for the lease to the City provided for in the fifth sentence of subsection (a) without applying a credit reflecting the value of the land acquired.".

Approved November 16, 1989.

LEGISLATIVE HISTORY—S. 1827:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 1, considered and passed Senate.
Nov. 2, considered and passed House.

Public Law 101-157
101st Congress

An Act

Nov. 17, 1989
[H.R. 2710]

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fair Labor Standards Amendments of 1989.
Business and industry.
Employment and unemployment.
29 USC 201 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1989".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C 201 et seq.).

SEC. 2. MINIMUM WAGE INCREASE.

Paragraph (1) of section 6(a) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending March 31, 1990, not less than $3.80 an hour during the year beginning April 1, 1990, and not less than $4.25 an hour after March 31, 1991;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Subsection (s) of section 3 (29 U.S.C. 203(s)) is amended to read as follows:

"(s)(1) 'Enterprise engaged in commerce or in the production of goods for commerce' means an enterprise that—

"(A)(i) has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person; and

"(ii) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);

"(B) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

"(C) is an activity of a public agency.

"(2) Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise. The sales of such an

establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.".

(b) PRESERVATION OF COVERAGE.— 29 USC 206 note.

(1) IN GENERAL.—Any enterprise that on March 31, 1990, was subject to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) and that because of the amendment made by subsection (a) is not subject to such section shall—

(A) pay its employees not less than the minimum wage in effect under such section on March 31, 1990;

(B) pay its employees in accordance with section 7 of such Act (29 U.S.C. 207); and

(C) remain subject to section 12 of such Act (29 U.S.C. 212).

(2) VIOLATIONS.—A violation of paragraph (1) shall be considered a violation of section 6, 7, or 12 of the Fair Labor Standards Act of 1938, as the case may be.

(c) CONFORMING AMENDMENTS.—

(1) SECTION 13(a).—Section 13(a) (29 U.S.C. 213(a)) is amended by striking out paragraphs (2) and (4).

(2) SECTION 13(g).—Section 13(g) is amended—

(A) by striking out "paragraphs (2) and" and inserting in lieu thereof "paragraph"; and

(B) by striking out ", except that" and all that follows in such subsection and inserting in lieu thereof a period.

(d) TECHNICAL AMENDMENTS.—Section 3(r) (29 U.S.C. 203(r)) is amended—

(1) by inserting "(1)" after "(r)";

(2) by striking out ": *Provided*, That, within" and inserting in lieu thereof a period and "Within";

(3) by redesignating clauses (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(4) by striking out "For purposes of this subsection" and inserting in lieu thereof the following:

"(2) For purposes of paragraph (1)";

(5) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(6) by striking out "public or private or" in subparagraph (A) (as so redesignated).

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on April 1, 1990. 29 USC 203 note.

SEC. 4. PUERTO RICO, VIRGIN ISLANDS, AND AMERICAN SAMOA.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 (29 U.S.C. 205) is amended—

(1) in the first sentence of subsection (a), by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa";

(2) in the second sentence of subsection (a)—

(A) by striking out "such island or islands" and inserting in lieu thereof "American Samoa"; and

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(3) by striking out subsection (e); and

(4) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(b) MINIMUM WAGE.—Section 6 (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) in the first sentence, by striking out all that follows "appoint" through the period at the end of the sentence and inserting in lieu thereof "pursuant to sections 5 and 8."; and

(B) by striking out the second sentence; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico who is employed by—

"(A) the United States,

"(B) an establishment that is a hotel, motel or restaurant,

"(C) any other retail or service establishment that employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, or

"(D) any other industry in which the average hourly wage is greater than or equal to $4.65 an hour.

"(2) In the case of any employee in Puerto Rico who is employed in an industry in which the average hourly wage is not less than $4.00 but not more than $4.64, the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1994, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1994.

"(3) In the case of an employee in Puerto Rico who is employed in an industry in which the average hourly wage is less than $4.00, except as provided in paragraph (4), the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1995, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1995.

"(4) In the case of any employee of the Commonwealth of Puerto Rico, or a municipality or other governmental entity of the Commonwealth, in which the average hourly wage is less than $4.00 an hour and who was brought under the coverage of this section pursuant to an amendment made by the Fair Labor Standards Amendments of 1985 (Public Law 99-150), the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1996, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1996.".

(c) WAGE ORDERS.—Section 8 (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(2) by striking out the second sentence of subsection (a);

(3) in the third sentence of subsection (a)—

(A) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa"; and

(B) by inserting before the period at the end of the sentence ", and who but for section 6(a)(3) would be subject to the minimum wage requirements of section 6(a)(1)";

(4) in the third sentence of subsection (b)—

(A) by striking out "Puerto Rico or in the Virgin Islands" and inserting in lieu thereof "American Samoa";

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa"; and

(C) by striking out "section 6(c)" and inserting in lieu thereof "section 6(a)(3)"; and

(5) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 14(b) (29 U.S.C. 214(b)) is amended by striking out "(or in" and all that follows through "section 6(c))" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

Effective April 1, 1990, the third sentence of section 3(m) (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the year beginning April 1, 1990, and (2) 50 percent of the applicable minimum wage rate after March 31, 1991,". Effective date.

SEC. 6. TRAINING WAGE. 29 USC 206 note.

(a) IN GENERAL.—

(1) AUTHORITY.—Any employer may, in lieu of the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), pay an eligible employee the wage prescribed by paragraph (2)—

(A) while such employee is employed for the period authorized by subsection (g)(1)(B)(i), or

(B) while such employee is engaged in on-the-job training for the period authorized by subsection (g)(1)(B)(ii).

(2) WAGE RATE.—The wage referred to in paragraph (1) shall be a wage—

(A) of not less than $3.35 an hour during the year beginning April 1, 1990; and

(B) beginning April 1, 1991, of not less than $3.35 an hour or 85 percent of the wage prescribed by section 6 of such Act, whichever is greater.

(b) WAGE PERIOD.—An employer may pay an eligible employee the wage authorized by subsection (a) for a period that—

(1) begins on or after April 1, 1990;

(2) does not exceed the maximum period during which an employee may be paid such wage as determined under subsection (g)(1)(B); and

(3) ends before April 1, 1993.

(c) WAGE CONDITIONS.—No eligible employee may be paid the wage authorized by subsection (a) by an employer if—

(1) any other individual has been laid off by such employer from the position to be filled by such eligible employee or from any substantially equivalent position; or

(2) such employer has terminated the employment of any regular employee or otherwise reduced the number of employees with the intention of filling the vacancy so created by hiring an employee to be paid such wage.

(d) LIMITATIONS.—

(1) EMPLOYEE HOURS.—During any month in which employees are to be employed in an establishment under this section, the proportion of employee hours of employment to the total hours of employment of all employees in such establishment may not exceed a proportion equal to one-fourth of the total hours of employment of all employees in such establishment.

(2) DISPLACEMENT.—

(A) PROHIBITION.—No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in subsection (a).

(B) DISQUALIFICATION.—If the Secretary determines that an employer has taken an action in violation of subparagraph (A), the Secretary shall issue an order disqualifying such employer from employing any individual at such wage.

(e) NOTICE.—Each employer shall provide to any eligible employee who is to be paid the wage authorized by subsection (a) a written notice before the employee begins employment stating the requirements of this section and the remedies provided by subsection (f) for violations of this section. The Secretary shall provide to employers the text of the notice to be provided under this subsection.

(f) ENFORCEMENT.—Any employer who violates this section shall be considered to have violated section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)). Sections 16 and 17 of such Act (29 U.S.C. 216 and 217) shall apply with respect to the violation.

(g) DEFINITIONS.—For purposes of this section:

(1) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means with respect to an employer an individual who—

(i) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a));

(ii) has not attained the age of 20 years; and

(iii) is eligible to be paid the wage authorized by subsection (a) as determined under subparagraph (B).

(B) DURATION.—

(i) An employee shall initially be eligible to be paid the wage authorized by subsection (a) until the employee has been employed a cumulative total of 90 days at such wage.

(ii) An employee who has been employed by an employer at the wage authorized by subsection (a) for the

period authorized by clause (i) may be employed by any other employer for an additional 90 days if the employer meets the requirements of subsection (h).

(iii) The total period, as authorized by clauses (i) and (ii), that an employee may be paid the wage authorized by subsection (a) may not exceed 180 days.

(iv) For purposes of this subparagraph, the term "employer" means with respect to an employee an employer who is required to withhold payroll taxes for such employee.

(C) PROOF.—

(i) IN GENERAL.—An individual is responsible for providing the requisite proof of previous period or periods of employment with other employers. An employer's good faith reliance on the proof presented to the employer by an individual shall constitute a complete defense to a charge that the employer has violated subsection (b)(2) with respect to such individual.

(ii) REGULATIONS.—The Secretary of Labor shall issue regulations defining the requisite proof required of an individual. Such regulations shall establish minimal requirements for requisite proof and may prescribe that an accurate list of the individual's employers and a statement of the dates and duration of employment with each employer constitute requisite proof.

(2) ON-THE-JOB TRAINING.—The term "on-the-job training" means training that is offered to an individual while employed in productive work that provides training, technical and other related skills, and personal skills that are essential to the full and adequate performance of such employment.

(h) EMPLOYER REQUIREMENTS.—An employer who wants to employ employees at the wage authorized by subsection (a) for the period authorized by subsection (g)(1)(B)(ii) shall—

(1) notify the Secretary annually of the positions at which such employees are to be employed at such wage,

(2) provide on-the-job training to such employees which meets general criteria of the Secretary issued by regulation after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives and other interested persons,

(3) keep on file a copy of the training program which the employer will provide such employees, Records.

(4) provide a copy of the training program to the employees,

(5) post in a conspicuous place in places of employment a notice of the types of jobs for which the employer is providing on-the-job training, and

(6) send to the Secretary on an annual basis a copy of such notice.

The Secretary shall make available to the public upon request notices provided to the Secretary by employers in accordance with paragraph (6). Public information.

(i) REPORT.—The Secretary of Labor shall report to Congress not later than March 1, 1993, on the effectiveness of the wage authorized by subsection (a). The report shall include—

(1) an analysis of the impact of such wage on employment opportunities for inexperienced workers;

(2) any reduction in employment opportunities for experienced workers resulting from the employment of employees under such wage;

(3) the nature and duration of the training provided under such wage; and

(4) the degree to which employers used the authority to pay such wage.

SEC. 7. MAXIMUM HOUR EXEMPTION FOR EMPLOYEES RECEIVING REMEDIAL EDUCATION.

Section 7 (29 U.S.C. 207) is amended by adding at the end thereof the following new subsection:

"(q) Any employer may employ any employee for a period or periods of not more than 10 hours in the aggregate in any workweek in excess of the maximum workweek specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if during such period or periods the employee is receiving remedial education that is—

"(1) provided to employees who lack a high school diploma or educational attainment at the eighth grade level;

"(2) designed to provide reading and other basic skills at an eighth grade level or below; and

"(3) does not include job specific training.".

2 USC 60k.

SEC. 8. APPLICATION OF RIGHTS AND PROTECTIONS OF FAIR LABOR STANDARDS ACT OF 1938 TO CONGRESSIONAL AND ARCHITECT OF THE CAPITOL EMPLOYEES.

(a) HOUSE EMPLOYEES.—

(1) IN GENERAL.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2, the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to any employee in an employment position in the House of Representatives and to any employing authority of the House of Representatives.

(2) ADMINISTRATION.—In the administration of this subsection, the remedies and procedures under the Fair Employment Practices Resolution shall be applied. As used in this paragraph, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 4, 1988, as continued in effect by House Resolution 15, One Hundred First Congress, agreed to January 3, 1989.

(b) ARCHITECT OF THE CAPITOL EMPLOYEES.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2, the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to individuals employed under the Office of the Architect of the Capitol.

SEC. 9. CIVIL PENALTIES FOR VIOLATIONS.

Section 16(e) (29 U.S.C. 216(e)) is amended—

(1) in the first sentence, by inserting after "or any regulation issued under that section," the following: "or any person who repeatedly or willfully violates section 6 or 7"; and

(2) in paragraph (3), by adding after "section 15(a)(4)" the following: "or a repeated or willful violation of section 15(a)(2)".

Approved November 17, 1989.

LEGISLATIVE HISTORY—H.R. 2710 (S. 1182):

HOUSE REPORTS: No. 101-260, Pt. 1 (Comm. on Education and Labor).
SENATE REPORTS: No. 101-117 accompanying S. 1182 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 1, considered and passed House.
Nov. 6-8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 17, Presidential remarks and statement.

Public Law 101-158
101st Congress

An Act

Nov. 17, 1989
[H.R. 3287]

To waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Revenue Bond Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1989".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.

Effective date.

(a) WAIVER.—The District of Columbia acts described in subsection (b) shall, if enacted by the Council of the District of Columbia, take effect on the date of the enactment of this Act, notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act or any provision to the contrary in those acts.

(b) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of District of Columbia revenue bonds referred to in subsection (a) are as follows:

(1) The Howard University Revenue Bond Act of 1989 (District of Columbia Bill 8-299, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for the issuance of bonds under such act may not exceed $82,850,000.

(2) The National Rehabilitation Hospital, Inc. Revenue Bond Act of 1989 (District of Columbia Bill 8-298, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $48,300,000.

(3) The Association of American Medical Colleges Revenue Bond Act of 1989 (District of Columbia Bill 8-258, introduced in the Council of the District of Columbia April 27, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $39,000,000.

(4) The Catholic University of America Revenue Bond Act of 1989 (District of Columbia Bill 8-300, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $13,000,000.

Approved November 17, 1989.

LEGISLATIVE HISTORY—H.R. 3287:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, conridered and passed House.
Nov. 3, considered and passed Senate.

Public Law 101-159
101st Congress

Joint Resolution

Nov. 17, 1989
[H.J. Res. 425]

Designating November 12 through 18, 1989, as "Community Foundation Week".

Whereas the citizens of the United States have a strong tradition of contributing generously to the well-being of their communities and the Nation;

Whereas community foundations are tax-exempt organizations formed to attract endowment funds and to distribute foundation earnings to further the well-being of their communities;

Whereas these earnings are distributed by volunteer boards of directors who are knowledgeable of their communities' needs in areas such as education, arts and culture, social services, economic development, health, the environment, and civic affairs;

Whereas community foundations augment the effectiveness of public and other private services by providing essential coordination to these efforts, and address community needs by providing leadership and resources on a permanent basis;

Whereas community foundations are in their 75th year of existence in the United States, and are the fastest growing form of philanthropy today;

Whereas there are now more than 300 community foundations in the United States with total assets of over $4,750,000,000; and

Whereas the Nation's citizens who generously support philanthropic and charitable organizations should be highly commended and encouraged to increase and perpetuate private voluntary contributions to community foundations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12 through 18, 1989, is designated as "Community Foundation Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 17, 1989.

LEGISLATIVE HISTORY—H.J. Res. 425 (S.J. Res. 216):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, S.J. Res. 216 considered and passed Senate.
Oct. 31, H.J. Res. 425 considered and passed House.
Nov. 3, considered and passed Senate.
Nov. 7, S.J. Res. 216 considered and passed House.

Public Law 101-160
101st Congress

Joint Resolution

Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day".

Nov. 17, 1989
[S.J. Res. 215]

Whereas Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 68 percent of officers and 48 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than two million seven hundred thousand of the more than four million eight hundred thousand in the active duty community, and spouses and children of members of the Reserves in paid status account for more than one million five hundred thousand of the more than two million seven hundred thousand in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly five hundred thousand and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 20, 1989, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved November 17, 1989.

LEGISLATIVE HISTORY—S.J. Res. 215:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, considered and passed Senate.
Nov. 7, considered and passed House.

Public Law 101-161
101st Congress

An Act

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 2883]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes; namely:

Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,789,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

FARM AND EXPORT PROGRAMS

For development of a plan by the Secretary for returning the use of the Commodity Credit Corporation to its primary function which was to buy and sell competitively to enable the farmer to offset high American costs and to maintain his fair share of world markets; and to restore the use of section 32 (30 per centum of customs receipts) as authorized by law, the use of which is presently suspended, to enable the farmer to secure his income from the user of his products rather than the U.S. Treasury and to enable the American farmer to regain and retain, by competitive sales, our normal share of world markets, $400,000.

COMPILATION OF METHODS USED BY FOREIGN COUNTRIES TO PROTECT THEIR DOMESTIC AGRICULTURE

To enable the Secretary of Agriculture to investigate and compile a listing of the laws and practices used by foreign countries to protect their domestic agriculture from foreign competition and to expand their foreign markets in order to assist the Department in regaining and retaining our fair share of world markets, $400,000.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $397,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation

expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $4,554,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $470,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,467,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided*, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $23,033,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,494,000: *Provided*, That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $20,000,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous

waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $22,020,000 and in addition, for payment of the USDA share of the National Communications System, $2,000; making a total of $22,022,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $414,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,964,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000, may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $542,000.

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $479,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $52,053,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $21,828,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $454,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $51,102,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225):

Provided further, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $67,901,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,936,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $438,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $592,339,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall

7 USC 2254.

not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $750,000, and except for ten buildings to be constructed or improved at a cost not to exceed $450,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations on purchase of land shall not apply to the purchase of land at Corvallis, Oregon; Weslaco, Texas; and Kimberly, Idaho: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

7 USC 2254.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $10,675,000: *Provided,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided further,* That funds recovered in satisfaction of judgment at the Plum Island Animal Disease Center shall be available and augment funds appropriated in a prior fiscal year for construction at Plum Island Animal Disease Center and be used for construction necessary to consolidate research and operations at the Center and for renovation of the Beltsville Agricultural Research Center.

20 USC 191 note.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $157,045,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved

October 10, 1962 (16 U.S.C. 582a-582-a7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $25,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges including Tuskegee University; $56,543,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $43,066,000 for competitive research grants including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $325,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $5,368,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agricultural Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $6,004,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,152,000 for grants to States for the operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $4,450,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and $13,507,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $341,994,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $45,686,000.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said

Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $244,094,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000; payments for the urban gardening program under section 3(d) of the Act, $3,500,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $2,580,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $953,000; payments for a groundwater quality program under section 3(d) of the Act, $5,250,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $3,350,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978 under 3(d) of the Act, $2,765,000 and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $22,000,000; in all, $363,146,000, of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $8,811,000, of which not less than $2,300,000 is for Home Economics.

National Agricultural Library

For necessary expenses of the National Agricultural Library, $14,883,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $675,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further*, That $385,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818).

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $427,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $352,182,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

21 USC 129.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $13,422,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $422,799,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $8,185,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations

throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,714,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $33,171,000; of which not less than $1,623,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $37,962,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $8,007,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field

employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,562,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $419,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $632,588,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds

shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided. Contracts.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $225,626,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $162,939,000, of which $28,862,000 is to reimburse the Federal Crop Insurance Corporation Fund for agents' commission and loss adjustment obligations incurred during prior years, but not previously reimbursed, as provided for under the provisions of section 516(a) of the Act.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1990, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $4,800,000,000 in the President's fiscal year 1990 Budget Request (H. Doc. 101-4)), but not to exceed $4,233,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1988 and 1989 include $1,969,000,000 in connection with carrying out the Export Enhancement Program (EEP), $264,000,000 in connection with carrying out the Targeted Export Assistance Program (TEA), $1,500,000,000 in connection with carrying out the Federal Crop Insurance Program, and $31,831,000,000 in connection with carrying out the commodity programs.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,415,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments. Reports.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $424,000.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,932,490,000, of which not less than $1,881,920,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $300,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That of this amount

not less than $124,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $170,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1990 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1986, 1987, 1988 and 1989, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $1,317,000 as authorized by section 521(c) of the Act, also including not to exceed $5,000,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $2,677,897,000. For an additional amount as authorized by section 521(c) of the Act, such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $569,000,000, of which $13,500,000 shall not become available for obligation until October 1, 1990, (for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119, September 29, 1987), to the extent that this action has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change) and $475,500,000 shall be guaranteed loans; $7,000,000 for water development, use, and conservation loans, of which $1,500,000 shall be guaranteed loans; operating loans, $3,500,000,000, of which $2,600,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101-5106), $3,500,000.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior

years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $4,120,159,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $430,190,000, of which $75,000,000 shall be for guaranteed loans; guaranteed industrial development loans, $95,700,000; and community facility loans, $119,700,000, of which $24,000,000 shall be for guaranteed loans.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,474,499,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $19,500,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $2,000,000 and from funds appropriated to this account, $17,500,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $209,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,750,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $16,500,000: *Provided*, That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further*, That $1,250,000 shall be available for grants to statewide private, non-profit public television systems in predominately rural States, to provide information and services on rural economics and agriculture.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III-A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $422,934,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided*, That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further*, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $3,234,000 of this appropriation shall be available

for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That notwithstanding any other provision of law, $1,000,000 of this appropriation shall be available solely to carry out the Lower Mississippi Delta Development Act as incorporated by reference in Public Law 100-460, that all funds appropriated to carry out the purposes of the Lower Mississippi Delta Development Act shall be available for obligation and expenditure through September 30, 1990, or the date of expiration of the Commission, whichever shall occur first, and that notwithstanding section 10(a) of the Delta Development Act, the date for the submission of the Commission's interim report is extended to October 16, 1989: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

42 USC 3121 note.
Reports.
7 USC 1981a note.
Securities.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1989 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1990, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $244,100,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

Contracts.

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1990 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,329,000.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

Grants.
Loans.

For grants and loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $5,000,000, to remain available until expended: *Provided,* That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $194,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1990, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of

the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $31,124,000: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further,* That not less than $500,000 of this appropriation shall be expended to provide community and economic development technical assistance by Rural Electrification Administration employees to rural electric and telephone systems, and that such technical assistance program be made available within ninety days of enactment.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $445,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $481,000,000, of which not less than $5,494,000 is for snow survey and water forecasting and not less than $7,234,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $355,000,000 is for personnel compensation and benefits: *Provided further,* That except for $1,841,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C.

16 USC 590e-1.

Public buildings and grounds.

590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

Employment and unemployment.
16 USC 590e-2.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,292,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,824,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $182,373,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this

appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $27,620,000: *Provided,* That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,884,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q, and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510)), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $184,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical

assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $12,371,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $10,420,000, to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies. Contracts.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,010,978,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws

enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $412,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789); $4,887,494,000, to remain available through September 30, 1991, of which $730,940,000 is hereby appropriated and $4,156,554,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $3,600,000 shall be available for independent verification of school food service claims: *Provided further,* That $500,000 shall be available to establish the Food Service Management Institute at the University of Mississippi.

42 USC 1776a.

42 USC 1776b.

Claims.

Reports.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $20,449,000, to remain available through September 30, 1991. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimburse-

Claims.

ment is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,126,000,000, to remain available through September 30, 1991, of which up to $2,000,000 may be used to carry out the farmer's market coupon demonstration project.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $65,028,000: *Provided,* That funds provided herein shall remain available through September 30, 1991: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $15,707,096,000: *Provided,* That funds provided herein shall remain available through September 30, 1990, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $936,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028, of which not to exceed $10,825,000 is available for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the

Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $206,510,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $40,000,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided*, That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $93,026,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $9,145,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $102,529,000: *Provided*, That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AGRICULTURAL TRADE MISSIONS

For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202, $200,000.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $860,955,000, of which $309,900,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $682,100,000, of which $682,100,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title to this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $6,118,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricul-

tural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $875,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $560,271,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the sums provided herein, not to exceed $2,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,350,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug

Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued in fiscal year 1990, as authorized, $90,000,000: *Provided,* That not to exceed $2,206,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further,* That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

12 USC 2278a-3 note.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $37,691,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $36,120,000 (from assessments collected from farm credit system institutions and the Federal Agricultural Mortgage Corporation), shall be available for administrative expenses as authorized under 12 U.S.C. 2249, of which not to exceed $1,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Contracts.
Public information.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1990 under this Act shall be available for the purchase, in

addition to those specifically provided for, of not to exceed 514 passenger motor vehicles, of which 508 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

7 USC 1623a.

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

Drugs and drug abuse.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, $5,000,000 for the Grasshopper and Mormon Cricket Control Programs, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities, and up to $10,000,000 of funds made available for construction at the Beltsville Agricultural Research Center; Cooperative State Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

Government organization and employees.
Disaster assistance.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county

committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Securities.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

Commerce and trade.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

7 USC 612c note.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

Polish People's Republic.
Loans.
President of U.S.
Reports.

SEC. 620. During fiscal year 1990, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or

corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1989 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

Flood control.

SEC. 622. In fiscal year 1990, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

Animals.
Health care professionals.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 7,500; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1990 shall be first offered to the borrowers for prepayment.

SEC. 633. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $200,000,000.

SEC. 634. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $1,000,000,000 in the President's fiscal year 1990 Budget Request (H. Doc. 101-4)) if the aggregate amount of funds and/or commodities under such program exceeds $770,000,000.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 636. In fiscal years 1990 and 1991, $30,000,000 of section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, and such purchases to facilitate additional sales of such oils in world markets at competitive prices, so as to compete with other countries: *Provided*, That these funds shall be in addition to funds made available for this purpose by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460).

Government organization and employees.
Wages.

SEC. 637. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 638. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 639. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 25 per centum of total direct costs under each award.

Sugar.
Philippines.
Exports.

SEC. 640. Within 30 days of the enactment of this section the Secretary of Agriculture may establish and operate a program for fiscal year 1990 as follows:

(a) The Secretary shall make available to sugar refiners, operators and processors commodities acquired by the Commodity Credit Corporation at such levels as the Secretary determines necessary to permit such refiners, operators or processors to purchase in the amounts specified below raw sugar grown in the Republic of the Philippines and countries designated as beneficiary countries pursuant to section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) at prices equivalent to the market price for raw cane sugar in the United States on the condition that an equivalent amount of sugar refined in the United States is exported to world markets within 60 days. The Secretary shall make such commodities available on the basis of competitive bids and shall have discretion to accept or reject bids under such criteria as the Secretary determines appropriate. Generic certificates shall be issued in lieu of commodities acquired by the Commodity Credit Corporation under the program established under this section.

Imports.

(b) The Secretary shall make available sufficient commodities to permit the importation of no less than 290,000 short tons of sugar, raw value, from the beneficiary countries specified in subsection (a), and no less than 110,000 short tons of sugar, raw value, from the Republic of the Philippines. Sugar imported under the program authorized under this section shall be in addition to any sugar quota level established for the countries specified in subsection (a) pursuant to headnote 3 of schedule 1, part 10, subpart A of the Tariff Schedules of the United States (9 U.S.C. 1202).

Tariff Schedules of the U.S.

(c) In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the program established under this section, make appropriate adjustments in bids received from sugar refiners, operators and processors to reflect differing transportation costs based on refinery and factory location.

(d) The program authorized under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(f) Nothing in this section shall be deemed to increase the appropriation for any program administered by the United States Department of Agriculture.

Reports.
7 USC 2207a.

SEC. 641. (a)(1) Not later than 20 days after the end of each fiscal year, the Secretary of Agriculture shall (A) submit to Congress a report on the amounts obligated and expended by the Department during that fiscal year for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the fiscal year and the amount of each contract.

(B) The purpose of each contract.

(C) The justification for the award of each contract and the reason the work cannot be performed by civil servants.

(b) The Comptroller General of the United States shall review the reports submitted under subsection (a) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 2883:

HOUSE REPORTS: No. 101-137 (Comm. on Appropriations) and No. 101-361 (Comm. of Conference).
SENATE REPORTS: No. 101-84 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 18, considered and passed House.
July 27, considered and passed Senate, amended.
Nov. 16, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 21, Presidential statement.

Public Law 101-162
101st Congress

An Act

Nov. 21, 1989
[H.R. 2991]

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990.
Department of Commerce Appropriations Act, 1990.

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $2,000 for official entertainment, $28,173,000, of which not to exceed $1,467,000 shall be available for the Office of the General Counsel.

Office of the Inspector General

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), $13,500,000.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $101,288,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $1,322,967,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $31,150,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $191,196,000, of which, notwithstanding any other provision of law $11,350,000 shall be used to make or complete each grant designated in Public Law 100-459 in subsections (a), (c), (h), (i), (k), and (l) under the heading "Economic Development Assistance Programs" which has not been made and for which pre-application or applications have been filed: *Provided,* That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations, and provisions in effect prior to December 22, 1987.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,475,000 of which not to exceed $494,000 shall be available for the Office of Chief Counsel: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977: *Provided further,* That notwithstanding any other provision of law, not to exceed $4,016,618 of the funds appropriated by this Act for "Economic Development Assistance Programs" shall be available for the purpose of paying the Economic Development Administration for any debt that arises due to the expenditure of funds under grant number 06-19-01498 as described in Inspector General Final Audit Report No. D-184-8-024 and that none of the funds appropriated by this Act shall delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: *Provided further,* That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number

of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date: *Provided further,* That none of the funds may be used to formulate or implement any action, activity, guideline, program, project, policy or regulation which alters the practice of making grants directly to planning and development districts which was in effect on December 31, 1988, or which results in denial of funding to any planning and development district on the basis of the number of years such district has received economic development assistance program funding or on the basis of the geographic area such district encompasses or on the basis of the population situated in the geographic area such district encompasses or a combination of any of these factors.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and including demonstrating new alternatives to providing services domestically and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and implementation of section 406(b) of the U.S.-Canada Free-Trade Agreement Implementation Act of 1988, notwithstanding section 406(b)3 of said Act; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $300,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $181,296,000, to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment of assessments for services provided as part of these activities: *Provided further,* That of the funds provided in this Act or any previous Acts for the International Trade Administration Trade Adjustment Assistance Program including those amounts provided in advance to recipient organizations which remain unexpended or which have been obligated or reserved for fiscal year 1990 expenses, including close out costs, by those organizations as of October 1, 1989, not to exceed $10,877,000 shall be available for the Trade

Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight. 19 USC 2171 note.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $42,000,000, to remain available until expended, of which $1,000,000, including $775,000 previously appropriated, shall be available for additional regional export control assistance offices to be located in the Northern California area, in Portland, Oregon, and in the Boston/Nashua area: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,741,000, of which $25,321,000 shall remain available until expended: *Provided,* That not to exceed $14,420,000 shall be available for program management for fiscal year 1990.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by con-

tract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $12,000 for representation expenses abroad; $14,300,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 31 U.S.C. 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 31 U.S.C. 883i; $1,214,607,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semi-tropical research facility located at Key Largo, Florida; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $55,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: *Provided further,* That for fiscal year 1990 and hereafter funds appropriated under this heading shall be available for acquisition of land for facilities.

33 USC 851.

33 USC 883k.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,000,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980(b) and 1980(f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $736,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,986,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, and including defense of suits instituted against the Commissioner of Patents and Trademarks; $85,900,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $3,900,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the core programs of the National Institute of Standards and Technology, $144,809,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities; and in addition for grants for regional centers for the transfer of manufacturing technology as authorized by section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $7,500,000, to remain available until expended; and in addition for expenses of the Advanced Technology Program as authorized by section 5131 of the Omnibus Trade and Competitiveness Act of 1988, $10,000,000, to remain available until expended; and in addition for technology transfer extension services pursuant to section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $1,300,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $14,200,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interest to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

Gifts and property. Research and development. 15 USC 278d note.

SEC. 104. Hereafter, the National Institute of Standards and Technology is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. None of the funds appropriated in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

This title may be cited as the "Department of Commerce Appropriations Act, 1990".

TITLE II—DEPARTMENT OF JUSTICE

Department of Justice Appropriations Act, 1990.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $87,439,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $20,673,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,500,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $257,000,000, of which not to exceed $5,751,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for ligitation support contracts shall remain available until September 30, 1991: *Provided,* That of the funds available in this appropriation, not to exceed $12,160,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration: *Provided further,* That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That for fiscal year 1990 and hereafter the Attor-

28 USC 509 note.

ney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302: *Provided further,* That, notwithstanding any other provision of law, not to exceed $1,000,000 for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act.

50 USC app. 1989b-3 note.

Subject to the provisions of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989 (b-3(e)), the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988, for payments to eligible individuals under section 105 of that Act.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $32,222,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $444,862,000, of which not to exceed $5,000,000 shall be available until September 30, 1991, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $60,729,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

22 USC 1622d note.

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $440,000: *Provided,* That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for: allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be

necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $217,027,000 as authorized in Public Law 100-690 (102 Stat. 4513): *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, for fiscal year 1990 and hereafter the Director of the United States Marshals Service may collect fees and expenses for the services authorized by 28 U.S.C. 1921 as amended by Public Law 100-690, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses. 28 USC 1921 note.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $137,034,000, to remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances; $56,784,000, to remain available until expended, of which not to exceed $1,690,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: *Provided,* That for fiscal year 1990 and hereafter the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties: *Provided further,* That for fiscal year 1990 and hereafter the Attorney General, upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act, may authorize litigating components to reimburse this account for expert witness expenses when it appears current allocations will be exhausted for cases scheduled for trial in the current fiscal year. 28 USC 509 note. 28 USC 509 note.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,334,000, of which not to exceed $21,500,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under sec-

tion 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended, $75,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989, and the date of enactment of this Act: *Provided further*, That section 506(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by adding "or 0.25 percent, whichever is greater," after "$500,000".

42 USC 3756.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,730 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities and $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, Virginia, shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided*, That the Director of

the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $30,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 703 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $492,180,000, of which not to exceed $1,200,000 for research shall remain available until expended; and of which not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $9,638,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment, shall remain available until September 30, 1991: *Provided,* That not to exceed $30,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 620, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $828,300,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Serv-

ice shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That for fiscal year 1990 and hereafter capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes: *Provided further,* That title 8, United States Code, section 1356(n) is amended by deleting "in excess of $50,000,000" after "Immigration Examinations Fee Account," and by deleting "At least annually, deposits in the amount of $50,000,000 shall be transmitted from the 'Immigration Examinations Fee Account' to the General Fund of the Treasury of the United States": *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

8 USC 1255a note.

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 159 of which 55 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,097,631,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $3,000 shall be available for official reception and representation expenses.

42 USC 250a.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $10,112,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: *Provided,* That labor of United States Prisoners may be

used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles. Contracts.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,857,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, $90,783,000, to remain available until expended as authorized by section 6093 and 7289 of Public Law 100-690 (102 Stat. 4339-4340 and 4461).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, $150,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $64,193,000, to remain avail-

able until expended as authorized by section 7265 of Public Law 100-690 (102 Stat. 4448 and 4449), of which $350,000 is for expenses authorized by section 241(f) of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and of which $2,000,000 is for expenses authorized by part D of title II of said Act.

In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1989, through September 30, 1990, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1990, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1990, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

Federal Register, publication.
State and local governments.

Grants.
State and local governments.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, $25,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

23 USC 114 note.

SEC. 202. During fiscal year 1990 and hereafter, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

28 USC 509 note.

SEC. 203. For fiscal year 1990 and hereafter, appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the

Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

28 USC 533 note.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1990—

(i) submit the results of such audit in writing to the Attorney General, and

Reports.

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

Reports.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

28 USC 533 note.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Abortion. Courts, U.S.

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Abortion.

SEC. 206. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 207. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 206 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

21 USC 881 note.

SEC. 208. Section 6077(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4325) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 209. (a) The Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989b and following) is amended by adding at the end thereof the following new section:

50 USC app. 1989b-9.

"SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

"Subject to sections 104(e) and 105(g) of this title, beginning on October 1, 1990, the payments to be made to any eligible individual under the provisions of this title shall be an entitlement. As used in this section, the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.".

50 USC app. 1989b-4.

(b) Section 105 of the Civil Liberties Act of 1988 is amended by adding at the end thereof the following:

"(g) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN THE FUND.—

"(1) GENERAL RULE.—An eligible individual may be paid under this section only from amounts in the Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in this title shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS TO BE PAID.—If at any time the Fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).".

SEC. 210. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 211. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by striking "1989" and inserting in lieu thereof "1990".

42 USC 3754.

SEC. 212. Section 506(a) of part E of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 375(a)) is amended to read as follows:

42 USC 3756.

State and local governments.

"SEC. 506. (a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.".

This title may be cited as the "Department of Justice Appropriations Act, 1990".

Department of State Appropriations Act, 1990.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by

31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,741,239,000, and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $51,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings Abroad": *Provided,* That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefor in appropriations Acts.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $21,000,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and Organization of American States, $4,600,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956, and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $348,100,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,300,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $106,034,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a note.

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress $622,000,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, including arrearages incurred through fiscal year 1989, $81,500,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations, including arrearages incurred through fiscal year 1989, and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,340,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 2269 and 4085.

INTERNATIONAL COMMISSIONS

22 USC 269a note.

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation

and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,460,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $11,500,000 to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended, for necessary expenses for international fisheries commissions, not otherwise provided for, $12,300,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529.

OTHER

U.S. BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, $4,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,900,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,000,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 302. For fiscal year 1992, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each activity, subactivity, and bureau within the Department.

This title may be cited as the "Department of State Appropriations Act, 1990".

The Judiciary Appropriations Act, 1990.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $17,434,000, of which not to exceed $15,000 shall be available for the procurement of an oil portrait of former Chief Justice Warren E. Burger to be placed in the United States Supreme Court Building; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $4,400,000, of which $2,121,000 shall remain available until expended: *Provided*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended); and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls, both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

40 USC 13a note.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $8,830,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,272,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $1,287,424,000 (including the purchase of firearms and ammunition): *Provided,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation as authorized by section 407(c) of the Judiciary Appropriation Act, 1987 (Public Law 99-591; 100 Stat. 3341-64): *Provided further,* That of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That, notwithstanding any other provision of law, not to exceed $2,500,000 for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $86,687,000, and the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible

minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $54,700,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: *Provided further*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for refreshment of jurors.

28 USC 1871 note.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $43,090,000 to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $33,670,000 of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $12,648,000.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For payment to the Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, and to the Judicial Survivors Annuity Fund, as authorized by Public Law 99-336, $6,500,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $6,520,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. Notwithstanding any other provision of law, for fiscal year 1990 and hereafter, (a) The Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. (b) The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. (c) The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. 28 USC 1930 note. Mail.

SEC. 404. (a) For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services. Mail. 28 USC 1930 note.

(b) JUDICIARY AUTOMATION FUND.—

(1) ESTABLISHMENT AND USE OF FUND.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 612. Judiciary Automation Fund

"(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the 'Judiciary Automation Fund' (hereafter in this section referred to as the 'Fund'). Moneys in the Fund shall be available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment for the judicial branch of the United States. The Fund shall also be available for expenses, including personal services and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment in the judicial branch.

"(b) PLAN FOR MEETING AUTOMATIC DATA PROCESSING NEEDS.—

"(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan for meeting the automatic

data processing equipment needs of the judicial branch. Such plan and revisions shall be submitted to Congress.

"(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure automatic data processing equipment for the judicial branch of the United States only in accordance with the plan developed under paragraph (1).

"(c) DEPOSITS INTO FUND.—

"(1) DEPOSITS.—There shall be deposited in the Fund—

"(A) all proceeds resulting from activities conducted under subsection (a), including net proceeds of disposal of excess or surplus property and receipts from carriers and others for loss of or damage to property;

"(B) amounts available for activities described in subsection (a) from funds appropriated to the judiciary; and

"(C) any advances and reimbursements required by paragraph (2).

"(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures automatic data processing equipment for any entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the automatic data processing equipment, from appropriations available to that entity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund for any fiscal year such sums as are required to supplement amounts deposited under subsection (c) in order to conduct activities under subsection (a).

"(e) CONTRACT AUTHORITY.—

"(1) FOR EACH FISCAL YEAR.—(A) In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of automatic data processing equipment in amounts which, in the aggregate, do not exceed $75,000,000 in advance of the availability of amounts in the Fund for such contracts.

"(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for automatic data processing equipment for periods of not more than five years for any contract, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Director determines that—

"(i) the need for the automatic data processing equipment being provided will continue over the period of the contract; and

"(ii) the use of the multi-year contract will yield substantial cost savings when compared with other methods of providing the necessary resources.

"(3) CANCELLATION COSTS OF MULTIYEAR CONTRACT.—Any cancellation costs incurred with respect to a contract entered into under paragraph (2) shall be paid from currently available amounts in the Fund.

"(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of automatic data processing equipment under this section shall be

conducted in compliance with section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

"(g) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of the Administrator of General Services under sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759).

"(h) ANNUAL REPORT.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(i) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate, may use amounts deposited into the Fund under subparagraph (c)(1)(B) for purposes other than those established in subsection (a) only by following reprogramming procedures in compliance with provisions set forth in section 606 of Public Law 100-459.

"(j) APPROPRIATIONS INTO THE FUND.—If the budget request of the Judiciary is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of subparagraph (c)(1)(B) will be the same as the amount of funds requested by the Judiciary for activities described in subsection (a). If an amount to be deposited is not specified by Congress and if the full request is not appropriated, the amount to be deposited under (c)(1)(B) will be set by the spending priorities established by the Judicial Conference.

"(k) DEFINITION.—For purposes of this section, the term 'automatic data processing equipment' has the meaning given that term in section 111(a)(2)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)(A)).

"(l) TERMINATION OF AUTHORITY.—The Fund, and the authorities conferred by this section, terminate on September 30, 1994. All unobligated amounts remaining in the Fund on that date shall be deposited into the 'Judicial Services Account' to be used to reimburse other appropriations.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of title 28, United States Code, is amended by adding at the end the following new item:

"612. Judiciary Automation Fund.".

SEC. 405. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States, provided that an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights, provided that any

supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

SEC. 406. (a) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120".

28 USC 1930 note.

Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to compel abandonment of property of the estate. The fees established pursuant to the preceding two sentences shall take effect 30 days after the enactment of this Act.

28 USC 1931 note.

(b) All fees as shall be hereafter collected for any service enumerated after item 18 of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and other Judicial Services and the Administrative Office of the United States Courts. The Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

Reports.

(c) Section 589a(b)(1) of title 28, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "one-fourth".

(d) Section 1931 of title 28, United States Code, is amended by striking out the following before the colon "as provided in annual appropriation acts".

This title may be cited as "The Judiciary Appropriations Act, 1990".

TITLE V—RELATED AGENCIES

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $225,870,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $65,050,000, to remain available until expended, and in addition $2,250,000 shall be derived from unobligated balances of "Ship Construction": *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $89,000,000, to remain available until expended: *Provided,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, $300,000.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $33,876,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), $190,000,000, of which not to exceed $52,000 may be made available for official reception and

representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

ISRAEL RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $183,500,000, to remain available until expended.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $220,000, to remain available until December 31, 1993 as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $300,000, to remain available until expended.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

Contracts.
Grants.

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,300,000, to remain available until expended, and in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301), and in addition, $705,000 to remain available until expended shall be available to the National Park Service to carry out provisions of Public Law 100-421; in all, appropriating $15,005,000, of which $7,500,000 is for carrying out the provisions of Public Law 99-194, including $3,142,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $4,358,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles $5,707,000, of which $2,000,000

is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further,* That the General Accounting Office shall audit the Commission's use of this appropriation under such terms and conditions as deemed appropriate by the Comptroller General and shall report its findings to the Appropriations Committees of the Senate and House of Representatives.

Reports.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For necessary start-up costs for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $850,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMMISSION ON THE UKRAINE FAMINE

For necessary close out expenses of the Commission on the Ukraine Famine, $100,000.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $1,290,000, to remain available until expended.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $184,926,000: *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c)(1)-(3)), shall not have effect during fiscal year 1990: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $109,000,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1991, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales,

licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for non-commercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $15,650,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $54,580,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $39,000,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,350,000; and an amount of Japanese currency not to exceed the equivalent of $1,610,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $274,965,000 is for basic field programs, $7,304,000 is for Native American programs, $10,088,000 is for migrant programs, $1,144,000 is for law school clinics, $1,040,000 is for supplemental field programs, $649,000 is for regional training centers, $7,518,000 is for national support, $8,158,000 is for State support, $900,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,703,000 is for Corporation management and administration.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $960,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000, to remain available until expended.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,000,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $89,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $168,707,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury.

15 USC 77f note.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $242,000,000, of which $500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, and of which $500,000 shall be made available for the establishment of a training program at the East-West Center to assist American businessmen and trade delegations in the Pacific Basin, and of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business and of which $50,000,000 is for grants for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, such sums as may be necessary for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), $7,400,000.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $77,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan

and Investment Fund", $82,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided*, That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $11,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISIONS

(1) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: *Provided*, That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement if such financing exceeds $155,000: *Provided*, That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16).

The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 percent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the

Administration, and (II) authority to service and liquidate such loans.".

(2) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended to read as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not affect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(3) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(4) Section 303 of the Small Business Investment Act of 1958 is amended by striking subsection (c) and inserting in lieu thereof the following new subsections: 15 USC 683.

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under the authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase shares of nonvoting stock (or other corporate securities having similar characteristics): *Provided*, That—

"(A) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum, except as provided in paragraph (5);

"(B) on liquidation or redemption the Administration is entitled to the preferred payment of the par value of such securities;

and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (A) of this paragraph;

"(C) the purchase price shall be at par value and, in any one sale, $50,000 or more;

"(D) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(i) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(ii) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(iii) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus; and

"(E) the amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (i) or (iii) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities; for the purposes of this subsection, the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.

"(2) The Administration may purchase or guarantee debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)): *Provided*, That—

"(A) such debentures are issued for a term of not to exceed fifteen years;

"(B) the interest rate is determined pursuant to this section or section 317; and

"(C) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(C) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or

legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

"(5) Notwithstanding the foregoing provisions of this subsection, securities purchased by the Administration on or after the effective date of this Act (A) shall provide that dividends shall be preferred and cumulative to the extent of 4 per centum of par value per annum and (B) shall include a provision requiring the issuer to redeem such securities, including any accrued and unpaid dividends, in 15 years from the date of issuance: *Provided,* That the Administration may, in its discretion, guarantee debentures in such amounts as will permit the simultaneous redemption of such securities, including such amounts as it deems appropriate to include all or any part of accrued and unpaid dividends: *Provided further,* That the Administration shall not pay any part of the interest on such debentures except pursuant to its guarantee in the event of default in payment by the issuer.

"(6) In no event shall the Administration purchase or guarantee debentures or securities if the amount of outstanding securities and debentures of a company operating under the authority of section 301(d) would exceed 400 per centum of its combined private paid-in capital and paid-in surplus or $35,000,000, which ever is less.

"(d) If the Administration guarantees debentures issued by a small business investment company operating under authority of section 301(d) of this Act, it shall make, on behalf of the company payments in such amounts as will reduce the effective rate of interest to be paid by the company during the first five years of the term of such debentures to a rate of interest 3 points below the market rate of interest determined pursuant to section 321. Such payments shall be made by the Administration to the holder of the debenture, its agents or assigns, or to the appropriate central registration agent, if any. The aggregate amount of debentures with interest rate reductions as provided in this subsection or as provided in section 317 which may be outstanding at any time from any such company shall not exceed 200 per centum of the private paid-in capital and paid-in surplus of such company. The authority to reduce interest rates as provided in this subsection shall be limited to amounts provided in advance in appropriations Acts, and the total amount shall be reserved within the business loan and investment fund to pay an amount equal to the amount of the reduction as it becomes due.

"(e) In determining the private capital of a small business investment company, Federal, State, or local government funds received from sources other than the Administration shall be included solely for regulatory purposes, and not for the purpose of obtaining financial assistance from or licensing by the Administration, providing such funds were invested prior to the effective date of this Act.

"(f) Notwithstanding the provisions of any other law, rule, or regulation, the Administration is authorized to allow the issuer of any preferred stock heretofore sold to the Administration to redeem or repurchase such stock upon the payment to the Administration of an amount less than the par value of such stock. The Administration, in its sole discretion, shall determine the repurchase price after considering factors including, but not limited to, the market value of the stock, the value of benefits previously provided and anticipated to accrue to the issuer, the amount of dividends previously paid, accrued, and anticipated, and the Administration's estimate of any

best copy available

anticipated redemption. The Administration may guarantee debentures as provided in paragraph (5) of subsection (c) and allow the issuer to use the proceeds to make the payments authorized herein. Any monies received by the Administration from the repurchase of preferred stock shall be deposited in the business loan and investment fund and shall be available solely to provide assistance to companies operating under the authority of section 301(d), to the extent and in the amounts provided in advance in appropriations Acts.".

15 USC 687*l*. (5) Section 321(a) of the Small Business Investment Act of 1958 is amended by inserting after the word "companies" the following: ", including companies operating under the authority of section 301(d),".

15 USC 648 note. (6) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is further amended by striking "October 1, 1990" and by inserting in lieu thereof "October 1, 1991".

(7) Notwithstanding any other provision of this Act, none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committee on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association of participants in such program.

Grants. (8) The funds made available by this appropriations Act for Small Business Development Centers shall be available for grants for performance in fiscal year 1990 or fiscal year 1991.

(9) The limitation of $1,813,250,000 on gross obligations for new direct loans to carry out section 7(b) of the Small Business Act, as amended, which is contained in section 108(c) of House Joint Resolution 423 as enacted into law is hereby waived: *Provided,* That the de facto credit limitation during fiscal year 1990 on gross obligations for new direct loans to carry out section 7(b) of the Small Business Act, as amended, imposed in the final Presidential sequestration order of October 16, 1989, and based on the calculation listed in the Final OMB Sequester Report to the President and Congress for Fiscal Year 1990 is hereby waived.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), $8,000,000, to remain available until expended: *Provided,* That section 607 of the Judicial Improvements and Access to Justice Act, Public Law 100-702,

42 USC 10713.

amending section 215 of the State Justice Institute Act of 1984 is hereby repealed and section 7321(a) of the Anti-Drug Abuse Act of 1988, Public Law 100-690, is hereby revived. 42 USC 10713.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Education and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, or persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $638,569,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided,* That not less than $32,800,000 shall be available for the Television and Film Service notwithstanding section 209(e) of Public Law 100-204: *Provided further,* That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further,* That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,675,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $160,300,000, including up to

$1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided,* That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment: *Provided further,* That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.

Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $12,700,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,700,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $17,000,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Securities.
15 USC 18a note.

SEC. 605. Five working days after enactment of this Act and thereafter, the Federal Trade Commission shall assess and collect filing fees established at $20,000 which shall be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and the regulations promulgated thereunder. For purposes of said Act, no notification shall be considered filed until payment of the fee required by this section. Fees collected pursuant to this section shall be divided evenly between and credited to the appropriations, Federal Trade Commission, "Salaries and Expenses" and Department of Justice, "Salaries and Expenses, Antitrust Division": *Provided*, That fees in excess of $40,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury of the United States.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as

approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Wages.
Government organization and employees.

SEC. 607. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Disadvantaged persons.

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

Grants.
Contracts.

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a

particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide

Communications and telecommunications. State and local governments.

legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Aliens.

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corpora-

tion or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts: *Provided further,* That the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: *Provided further,* That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in

Abortion.

Termination date.

Grants.
Contracts.
42 USC 2996f note.

operational effect on October 1, 1988: *Provided further,* That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: *Provided further,* That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That, notwithstanding any decision or action of the President of the Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have been found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null and void.

Sea turtles. Conservation. International agreements. Fish and fishing. Maritime affairs. 16 USC 1537 note.

SEC. 609. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

Reports.

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

Imports.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

President of U.S.

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

SEC. 610. (a) No monies appropriated by this Act may be used to reinstate, or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

China.

(b) The restriction on the approval of export licenses for United States-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(c) It is in the national interest of the United States.

SEC. 611. ADOPTION OF FOREIGN BORN ORPHANS.—

(a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term

'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203). 8 USC 1101 note.

SEC. 612. (a)(1) The Federal Building and United States Courthouse located at 707 Florida Avenue in Baton Rouge, Louisiana, shall hereafter be known and designated as the "Russell B. Long Federal Building and United States Courthouse". Public buildings and grounds. Louisiana.

(2) Each reference in law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Russell B. Long Federal Building and United States Courthouse".

(b)(1) There is hereby authorized to be appropriated such sums, not to exceed $5,500,000 to remain available until expended, as may be necessary to establish a clinical law center at Seton Hall University in Newark, New Jersey.

(2) The Secretary of Education shall make such grant in accordance with all of the terms, conditions, and requirements set forth for such a center in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 (99 Stat. 305)) and the Secretary of Education is authorized to receive, review and certify for payment applications for said grant. Not more than $1,000,000 of such grant shall be devoted to facilities. Grants.

(c) There is hereby authorized to be appropriated under title III of the Higher Education Act of 1965, as amended, $4,500,000 to remain available until expended, for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

(d)(1) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, is authorized, in accordance with the provisions of this subsection, to provide a grant for a Bioscience Research Center serving the midwestern States to be established at the University of Kansas in Lawrence, Kansas. Grants. Kansas.

(2) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary of Health and Human Services may reasonably require.

(3) There are authorized to be appropriated not to exceed $5,200,000 to carry out the provisions of this subsection. Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 613. (a) The Congress finds that—

(1) the illegal use of drugs is a crisis in America, causing incalculable suffering and damage to individuals, families, and social institutions;

(2) the economic and social dislocation caused by illegal drugs has had a devastating effect on the fabric of our society and citizens;

(3) it will take a multifaceted approach, both domestically and internationally, to successfully address the multifaceted problem of illegal drugs;

Manuel Noriega.

(4) Manuel Noriega's continued exercise of power in Panama has contributed to political unrest and international illegal drug trafficking in the hemisphere and the world, and that he should be removed from any position of power in Panama in order to reduce the drug flow and increase democracy;

(5) Public Law 100-690, the Anti-Drug Abuse Act of 1988, enacted on November 18, 1988, expressed the sense of the Congress that the President should convene as soon as possible an international conference on combating illegal drug production, trafficking, and use in the Western Hemisphere; and

(6) the national drug strategy announced by the President on September 5, 1989, states that "priority consideration should be given to convening at an early date a drug summit".

(b) It is the sense of the Congress that—

(1) the agenda of the international drug summit should include, among others, the subjects of interdiction, crop eradication, crop substitution, law enforcement, education and prevention, and the international sharing of intelligence;

(2) the President should consult with the leaders of participating countries at the international drug summit on ways to achieve international cooperation and coordination in support of measures directed at removing Manuel Noriega from any position of power in Panama; and

(3) in addition to or in the absence of an international drug summit, the United States should intensify unilateral and bilateral efforts as well as efforts in concert with international organizations and other multinational forums to assist the nations of the hemisphere in their battle against drugs and the drug traffickers, including measures directed at removing Manuel Noriega from any position of power in Panama.

SEC. 614. The funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations Acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 2991:

HOUSE REPORTS: No. 101-173 (Comm. on Appropriations) and Nos. 101-299 and 101-332 both from (Comm. of Conference).
SENATE REPORTS: No. 101-144 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 1, considered and passed House.
Sept. 29, considered and passed Senate, amended.
Oct. 26, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to Senate amendment No. 83.
Oct. 31, Senate agreed to conference report; concurred in certain House amendments, in others with amendments; and receded from its amendment No. 83.
Nov. 1, Senate concurred in House amendment to Senate amendment No. 182. House disagreed to certain Senate amendments.
Nov. 3, Senate insisted on its amendments.
Nov 7, House agreed to conference report.
Nov. 8, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 21, Presidential statement.

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